



Journal of the House

State of Indiana

114th General Assembly

First Regular Session

Fifty-third Meeting Day

Friday Morning

April 29, 2005

The House convened at 10:00 a.m. with the Speaker in the Chair.

The invocation was offered by Reverend Lloyd Decesaro, Living Word Community Church, South Bend, the guest of Representative Jackie S. Walorski.

The Pledge of Allegiance to the Flag was led by Representative Walorski.

The Speaker ordered the roll of the House to be called:

T. Adams ☐	Klinker
Aguilera	Koch
Alderman	Kromkowski
Austin	Kuzman
Avery	L. Lawson
Ayres	Lehe
Bardon	Leonard
Bauer ☐	J. Lutz
Becker	Mahern
Behning	Mays
Bischoff	McClain
Borders	Messer
Borror	Micon
Bottorff ☐	Moses
Bright	Murphy
C. Brown	Neese
T. Brown	Noe
Buck	Orentlicher
Budak	Oxley ☐
Buell	Pelath
Burton	Pflum
Cheney	Pierce
Cherry	Pond
Cochran	Porter
Crawford	Reske
Crooks	Richardson
Davis	Ripley
Day ☐	Robertson
Denbo	Ruppel
Dickinson	Saunders
Dobis	J. Smith
Dodge	V. Smith
Duncan	Stevenson
Dvorak	Stilwell
Espich	Stutzman
Foley	Summers
Friend	Thomas
Frizzell	Thompson
Fry	Tincher
GiaQuinta	Torr
Goodin	Turner
Grubb	Ulmer
Gutwein	VanHaften
E. Harris	Walorski
T. Harris	Welch
Heim	Whetstone
Hinkle	Wolkins
Hoffman	Woodruff
Hoy	Yount
Kersey	Mr. Speaker

Roll Call 630: 95 present; 5 excused. The Speaker announced a quorum in attendance. [NOTE: ☐ indicates those who were excused.]

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed House Concurrent Resolutions 67, 84, and 85 and the same are herewith returned to the House.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 55 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

ENROLLED ACTS SIGNED

The Speaker announced that he had signed House Enrolled Acts 1057, 1098, 1112, and 1314 on April 29.

RESOLUTIONS ON FIRST READING

Senate Concurrent Resolution 55

The Speaker handed down Senate Concurrent Resolution 55, sponsored by Representatives Becker and Avery:

A CONCURRENT RESOLUTION honoring Kate Endress as one of the top student-athletes in the nation.

Whereas, Kate Endress is an Evansville native and graduate of Evansville Memorial High School, where she excelled in athletics, academics, and school government. Miss Endress was a 2001 Indiana All-Star in basketball, averaging 25.9 points and 8.4 rebounds as a senior, as well as a multiple letter winner in volleyball and track. She also ranked in the top five percent of her class and was elected class vice-president throughout all four years of high school;

Whereas, Miss Endress has continued her academic and athletic career at Ball State University in Muncie, where she has achieved national recognition by being named the Women's Basketball Academic All-America of the year by ESPN The Magazine;

Whereas, Miss Endress has recently been named the Mid-American Conference Player of the Year for the 2004-2005 season, after leading the conference in scoring and three point percentage, as well as ranking near the top of the conference in rebounds;

Whereas, In addition to her athletic success, Miss Endress, a Ball State Presidential Scholarship recipient, has excelled as a student, earning a 3.95 in the university's nationally ranked Entrepreneurship Program;

Whereas, the success of the State of Indiana and the strength of our communities depend upon the dedication and leadership of young adults like Miss Endress; and

Whereas, the Indiana General Assembly recognizes Kate Endress for her dedication to both academics and athletics: Therefore,

*Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly congratulates Kate Endress for her numerous achievements and extends its best wishes for her continued success.

SECTION 2. The Secretary of Senate is hereby directed to transmit a copy of this resolution to Ball State University Athletic Director Bubba Cunningham, women's basketball Head Coach Tracy Roller, and Kate Endress.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

Representative Oxley, who had been excused, was present. Representative Leonard was excused.

ACTION ON RULES SUSPENSIONS AND CONFERENCE COMMITTEE REPORTS

Engrossed House Bill 1365-1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1365-1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1365-1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 631: yeas 86, nays 2. Report adopted.

Engrossed House Bill 1407-1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1407-1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1407-1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 632: yeas 86, nays 0. Report adopted.

Engrossed House Bill 1453-1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 20 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1453-1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 20 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1453-1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 633: yeas 86, nays 0. Report adopted.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 3:00 p.m. with the Speaker in the Chair.

Representative Leonard, who had been excused, was present. Representative Budak was excused.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that pursuant to Rule 81(c) of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has made the following change in conferees appointments to Engrossed Senate Bill 307:

Conferees: C. Lawson replacing Breaux

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report 1 on Engrossed Senate Bills 446, 498, 529, 549, 571, 574, 578, 590, 591, and 615.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I hereby transmit Senate Enrolled Acts 8, 30, 49, 66, 79, 196, and 202 for signature of the Speaker of the House.

MARY C. MENDEL
Principal Secretary of the Senate

CONFEREES AND ADVISORS APPOINTED

The Speaker announced the following changes in appointment of Representatives as conferees and advisors:

ESB 307 Conferees: Borders replacing Crawford

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT EHB 1394-1; filed April 29, 2005, at 1:33 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1394 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-10-1.1-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. (a) The state, through the budget agency, may adopt a defined contribution plan, under Section 401(a) of the Internal Revenue Code, for the purpose of matching all or a specified portion of state employees' contributions to the state employees' deferred compensation plan and for any additional purposes established by statute.

(b) The deferred compensation committee shall be the trustee of a plan established under subsection (a) as described in section 4 of this chapter. A plan established under subsection (a) shall be administered by the auditor of state as described in section 5 of this chapter.

(c) The deferred compensation committee may approve funding offerings for a plan established under subsection (a), which may be the same as offerings for the state employees' deferred compensation plan. All funds in each plan shall be separately accounted for but may be commingled for investment purposes.

(d) Contributions to a plan established under subsection (a) are limited to the amount of biennial appropriations the budget agency determines are available for any such purposes. The deferred compensation committee may use funds available under the plan to hire or contract with qualified attorneys, financial advisers, or other professional or administrative persons that the committee believes are necessary or useful in the administration of the plan.

(e) A plan established under subsection (a) must include appropriate provisions concerning the plan's day to day operation and any other provisions that are appropriate. Notwithstanding IC 22-2-6-2, the plan may also include provisions for the use of automated voice response units and telephonic communications, online activities, and other technology for participant elections, directions, and services if the technology has sufficient capacity to record and store the elections and directions.

(f) The state is obligated at any particular time only for the current market value of the funding previously made to a plan established under subsection (a).

(g) The state board of finance shall extend the plan established under subsection (a) to any political subdivision that also elects to use the state employees' deferred compensation plan for its employees as authorized in section 7(b)(2) **or 7(b)(3)** of this chapter.

SECTION 2. IC 5-10-1.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The deferred compensation committee is established. The committee consists of five (5) persons appointed by the state board of finance as follows:

(1) Each member of the state board of finance shall appoint one (1) member to the committee.

(2) The remaining two (2) members:

(A) must be participants in the state employees' deferred compensation plan;

(B) may not be employees of the members of the state board of finance;

(C) must be from different political parties; and

(D) may not serve for more than two (2) consecutive three (3) year terms.

(b) The deferred compensation committee may annually elect a chairperson and a secretary.

(c) The deferred compensation committee may approve proposed investment products for the state employees' deferred compensation plan.

(d) All amounts deferred under the state employees' deferred compensation plan must be put into a trust for the exclusive benefit of plan participants, as required by Section 457(g) of the Internal

Revenue Code. The deferred compensation committee is the trustee of the trust.

(e) The plan shall include appropriate provisions pertaining to its day to day operation providing for methods of electing to defer income, methods of changing the amount of income to be deferred, and such other provisions as may be appropriate. Notwithstanding IC 22-2-6-2, the plan may also include provisions for the use of automated voice response units and telephonic communications, on-line activities, and other technology for participant elections, directions, and services if the technology has sufficient capacity to record and store the elections and directions.

(f) The plan shall provide for the preparation and distribution, from time to time to all eligible employees, of pamphlets describing the plan and outlining the opportunities available to employees under the plan.

(g) The state board of finance shall extend the plan to any political subdivision which elects to utilize the state employees' deferred compensation plan for its employees as authorized in section 7(b)(2) **or 7(b)(3)** of this chapter.

(h) At least annually, the deferred compensation committee shall report to the state board of finance on the status of the state employees' deferred compensation plan, including any changes to the plan.

SECTION 3. IC 5-10-1.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) Any political subdivision (as defined by IC 36-1-2-13) may establish for its employees a deferred compensation plan. The plan shall be selected by the governing body of the political subdivision, which in the case of a unit subject to IC 36-1-3 shall be done by ordinance. Participation shall be by written agreement between each employee and the governing body of the political subdivision, which agreement provides for the deferral of compensation and subsequent administration of such funds.

(b) For funding such agreements, the governing body of the political subdivision may:

(1) designate one (1) of its agencies or departments to establish and administer such plans and choose such funding as deemed appropriate by the agency or department, which may include more than one (1) funding product; **or**

(2) extend the state employees' deferred compensation plan to employees of the political subdivision, subject to the terms and conditions of the state employees' deferred compensation plan as it is established from time to time; **or**

(3) offer both of the plans described in subdivisions (1) and (2).

(c) This section does not limit the power or authority of any political subdivision to establish and administer other plans deemed appropriate by the governing bodies of such subdivisions, including plans established under section 1(2) of this chapter.

SECTION 4. IC 5-10-1.1-7.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.3. (a) Any political subdivision (as defined in IC 36-1-2-13) that elects to use the state employees' deferred compensation plan for its employees as authorized in section 7(b)(2) **or 7(b)(3)** of this chapter also may elect to participate in the state's defined contribution plan established by section 1.5 of this chapter for the purpose of matching all or a specified portion of the political subdivision's employees' contributions to the deferred compensation plan.

(b) Participation in the state's defined contribution plan described in subsection (a) shall be authorized by the governing body of the political subdivision, which in the case of a unit subject to IC 36-1-3 shall be done by ordinance.

(c) Contributions by a political subdivision to the state's defined contribution plan described in subsection (a) for the purpose of matching all or a specified portion of employee contributions are limited to the amount of appropriations made each year for that purpose.

(d) The political subdivision is obligated at any particular time only for the current market value of the funding previously made to the state's defined contribution plan described in subsection (a).

(e) This section does not limit the power or authority of any political subdivision to establish and administer any other plans considered appropriate by the governing body of the political

subdivision, including plans established under section 1(2) of this chapter.

SECTION 5. IC 5-10-1.1-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.5. (a) As used in this section, "state agency" means the following:

- (1) An authority, a board, a branch, a commission, a committee, a department, a division, or other instrumentality of state government.
- (2) A separate corporate body politic that adopts the plan described in subsection (b).
- (3) State elected officials and their office staff.
- (4) The legislative services agency.
- (5) Legislative staff eligible to participate in the state employees' deferred compensation plan established by section 1 of this chapter.

However, the term does not include a state educational institution (as defined in IC 20-12-0.5-1) or a political subdivision.

(b) The deferred compensation committee shall adopt provisions in a defined contribution plan, under Sections 401(a) and 414(d) of the Internal Revenue Code, for the purpose of converting unused excess accrued leave to a monetary contribution for employees of a state agency. These provisions may be part of the plan and trust established under section 1.5(a) of this chapter.

(c) The deferred compensation committee is the trustee of the plan described in subsection (b). The plan must be a qualified plan, as determined by the Internal Revenue Service.

(d) The state personnel department shall adopt rules under IC 4-22-2 that it considers appropriate or necessary to implement this section. The rules adopted by the state personnel department under this section must:

- (1) be consistent with the plan described in subsection (b);
- (2) include provisions concerning:
 - (A) the type and amount of leave that may be converted to a monetary contribution;
 - (B) the conversion formula for valuing any leave that is converted;
 - (C) the manner of employee selection of leave conversion; and
 - (D) the vesting schedule for any leave that is converted; and
- (3) apply to all state agencies.

(e) The rules adopted by the state personnel department under subsection (d) specifying the conversion formula must provide for a conversion rate under which the amount contributed on behalf of a participating employee for a day of leave that is converted under this section is equal to at least sixty percent (60%) of the employee's daily pay as of the date the leave is converted.

(f) The deferred compensation committee may adopt the following:

- (1) Plan provisions governing:
 - (A) the investment of accounts in the plan; and
 - (B) the accounting for converted leave.
- (2) Any other plan provisions that are necessary or appropriate for operation of the plan.

(g) The plan described in subsection (b) may be implemented only if the deferred compensation committee has received from the Internal Revenue Service any rulings or determination letters that the committee considers necessary or appropriate.

(h) To the extent allowed by:

- (1) the Internal Revenue Code; and
- (2) rules adopted by:
 - (A) the state personnel department under this section; and
 - (B) the board of trustees of the public employees' retirement fund under IC 5-10.3-8-14;

an employee of a state agency may convert unused excess accrued leave to a monetary contribution under this section and under IC 5-10.3-8-14.

SECTION 6. IC 5-10.3-8-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 14. (a) This section applies to employees of the state (as defined in IC 5-10.3-7-1(d)) who are members of the fund.**

(b) The board shall adopt provisions to establish a retirement medical benefits account within the fund under Section 401(h) or

as a separate fund under another applicable section of the Internal Revenue Code for the purpose of converting unused excess accrued leave to a monetary contribution for an employee of the state to fund on a pretax basis benefits for sickness, accident, hospitalization, and medical expenses for the employee and the spouse and dependents of the employee after the employee's retirement.

(c) The board is the trustee of the account described in subsection (b). The account must be qualified, as determined by the Internal Revenue Service, as a separate account within the fund whose benefits are subordinate to the retirement benefits provided by the fund.

(d) The board may adopt rules under IC 5-10.3-3-8 that it considers appropriate or necessary to implement this section after consulting with the state personnel department. The rules adopted by the board under this section must:

(1) be consistent with the federal and state law that applies to:

- (A) the account described in subsection (b); and**
- (B) the fund; and**

(2) include provisions concerning:

- (A) the type and amount of leave that may be converted to a monetary contribution;**
- (B) the conversion formula for valuing any leave that is converted;**
- (C) the manner of employee selection of leave conversion; and**
- (D) the vesting schedule for any leave that is converted.**

(e) The board may adopt the following:

(1) Account provisions governing:

- (A) the investment of amounts in the account; and**
- (B) the accounting for converted leave.**

(2) Any other provisions that are necessary or appropriate for operation of the account.

(f) The account described in subsection (b) may be implemented only if the board has received from the Internal Revenue Service any rulings or determination letters that the board considers necessary or appropriate.

(g) To the extent allowed by:

(1) the Internal Revenue Code; and

(2) rules adopted by:

- (A) the board under this section; and**
- (B) the state personnel department under IC 5-10.1-1-7.5;**

employees of the state may convert unused excess accrued leave to a monetary contribution under this section and under IC 5-10.1-1-7.5.

SECTION 7. P.L.126-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: SECTION 1. (a) As used in this SECTION, "PERF board" refers to the public employees' retirement fund board of trustees established by IC 5-10.3-3-1.

(b) As used in this SECTION, "fund" refers to the fund for the defined contribution plan of the legislators' retirement system established by IC 2-3.5-3-2.

(c) Beginning January 1, 2004, the PERF board shall conduct a pilot program concerning:

- (1) the implementation of a member's investment selection; and
- (2) the crediting of a member's contributions and earnings;

for the fund.

(d) The pilot program referred to in subsection (c) must include the following elements:

(1) Notwithstanding IC 2-3.5-5-3(b)(2), the PERF board shall implement a member's selection under IC 2-3.5-5-3 not later than the next business day following receipt of the member's selection by the PERF board. This date is the effective date of the member's selection.

(2) Notwithstanding IC 2-3.5-5-3(b)(7), all contributions to a member's account in the fund must be allocated under IC 2-3.5-5-3 not later than the last day of the quarter in which the contributions are received and reconciled in accordance with the member's most recent effective direction.

(3) Notwithstanding IC 2-3.5-5-3(c) and IC 2-3.5-5-3(d), when

a member retires, becomes disabled, dies, or withdraws from the fund, the amount credited to the member is the market value of the member's investment as of five (5) business days preceding the member's distribution or annuitization at retirement, disability, death, or withdrawal, plus contributions received after that date.

(4) Notwithstanding IC 2-3.5-5-4, contributions to the fund under IC 2-3.5-5-4 must be credited to the fund not later than the last day of the quarter in which the contributions were deducted.

(5) Notwithstanding IC 2-3.5-5-5, the state shall make contributions under IC 2-3.5-5-5 to the fund not later than the last day of each quarter. The contributions must equal twenty percent (20%) of the annual salary received by each participant during that quarter.

(e) Before November 1, 2005, the PERF board shall report to the pension management oversight commission established by IC 2-5-12 the results of the pilot program referred to in subsection (c) and shall recommend proposed legislation if the report includes a finding that the pilot program should be implemented on a permanent basis. If the PERF board recommends implementing the pilot program on a permanent basis, the PERF board shall provide to the pension management oversight commission a schedule to implement the elements of the pilot program on a permanent basis for all funds for which it has responsibility.

(f) This SECTION expires ~~December 31, 2005~~ **July 1, 2006**.

SECTION 8. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "committee" refers to the deferred compensation committee established by IC 5-10-1.1-4.

(b) As used in this SECTION, "plan" refers to the deferred compensation plan described in IC 5-10-1.1-5.

(c) The committee shall adopt a pilot program that enables the employees of at least one (1) branch of state government to make the first conversion of unused excess accrued leave to a monetary contribution under the plan not later than December 31, 2005.

(d) The auditor of state shall provide for the administration of the pilot program under IC 5-10-1.1-5.

(e) The provisions of IC 5-10-1.1-7.5 apply to the pilot program described in subsection (c).

(f) This SECTION expires on the earlier of:

(1) the date the leave conversion provisions of the plan are fully implemented on a permanent basis for all state agencies (as defined in IC 5-10-1.1-7.5(a)); or

(2) July 1, 2010."

Page 2, after line 16, begin a new paragraph and insert:

"SECTION 10. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "department" refers to the state personnel department established by IC 4-15-1.2.

(b) Notwithstanding IC 5-10-1.1-7.5(d), the department shall adopt any rules to implement IC 5-10-1.1-7.5, as amended by this act, and SECTION 8 of this act, in the same manner as emergency rules are adopted under IC 4-22-2-37.1.

(c) Any rules adopted under this SECTION must be adopted so that employees of at least one (1) branch of state government are able to make the first conversion of unused excess accrued leave not later than December 31, 2005.

(d) A rule adopted under this SECTION expires on the earlier of:

(1) the date rules are adopted by the department under IC 4-22-2-24 through IC 4-22-2-36 to implement IC 5-10-1.1-7.5, as amended by this act, for all state agencies (as defined in IC 5-10-1.1-7.5(a)); or

(2) July 1, 2010.

(e) This SECTION expires July 1, 2010.

SECTION 11. [EFFECTIVE JULY 1, 2005] (a) This SECTION applies to a surviving spouse of an employee beneficiary who:

(1) died before July 1, 2005; and

(2) was a member of a retirement plan established under IC 36-8-10-12.

(b) A monthly pension paid under IC 36-8-10-16(c), before its amendment by SEA 611-2005, to a surviving spouse after the date the surviving spouse remarried and before July 1, 2005, shall be treated as properly paid.

(c) The monthly pension of a surviving spouse:

(1) who remarried after December 31, 1989; and
(2) whose monthly pension paid under IC 36-8-10-16(c), before its amendment by SEA 611-2005, ceased on the date of remarriage;

shall be reinstated on July 1, 2005, under IC 36-8-10-16, as amended by SEA 611-2005, SECTION 2, and continue during the life of the surviving spouse.

SECTION 12. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1394 as printed March 18, 2005.)

STUTZMAN	M. YOUNG
KROMKOWSKI	SKINNER
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT

ESB 213-2; filed April 29, 2005, at 1:46 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 213 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-2.5-1-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 28. "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.**

SECTION 2. IC 6-2.5-5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 20. (a) Sales of food and food ingredients for human consumption are exempt from the state gross retail tax.**

(b) For purposes of this section, the term "food and food ingredients for human consumption" includes the following items if sold without eating utensils provided by the seller:

(1) Food sold by a seller whose proper primary NAICS classification is manufacturing in sector 311, except subsector 3118 (bakeries).

(2) Food sold in an unheated state by weight or volume as a single item.

(3) Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.

(c) Except as otherwise provided by subsection (b), for purposes of this section, the term "food and food ingredients for human consumption" does not include:

(1) candy;

(2) alcoholic beverages;

(3) soft drinks;

(4) food sold through a vending machine;

(5) food sold in a heated state or heated by the seller;

(6) two (2) or more food ingredients mixed or combined by the seller for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or

(7) food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food); or

(8) tobacco.

SECTION 3. IC 6-2.5-5-39 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 39. (a) As used in this section, "cargo trailer" means a vehicle:**

(1) without motive power;

- (2) designed for carrying property;
- (3) designed for being drawn by a motor vehicle; and
- (4) having a gross vehicle weight rating of at least two thousand two hundred (2,200) pounds.

(b) As used in this section, "recreational vehicle" means a vehicle with or without motive power equipped exclusively for living quarters for persons traveling upon the highways. The term includes a travel trailer, a motor home, a truck camper with a floor and facilities enabling it to be used as a dwelling, and a fifth wheel trailer.

(c) A transaction involving a cargo trailer, a recreational vehicle, or an aircraft is exempt from the state gross retail tax if:

- (1) the purchaser is a nonresident;
- (2) upon receiving delivery of the cargo trailer, recreational vehicle, or aircraft, the person transports it within thirty (30) days to a destination outside Indiana;
- (3) the cargo trailer, recreational vehicle, or aircraft will be titled or registered for use in another state or country; and
- (4) the cargo trailer, recreational vehicle, or aircraft will not be titled or registered for use in Indiana.

The amount of the exemption for a cargo trailer or recreational vehicle is determined in subsection (d).

(d) The amount of the exemption for a cargo trailer or a recreational vehicle under this section is equal to the amount of:

- (1) the state gross retail tax that would be imposed on the transaction if the cargo trailer or recreational vehicle were registered in Indiana; minus
- (2) the sales, use, or similar tax that would have been imposed on the transaction under the laws of the state or country in which the purchaser affirms the cargo trailer or recreational vehicle will be registered.

The amount of the exemption under this section may not exceed the amount of the state gross retail tax that would be imposed on the transaction if the cargo trailer or recreational vehicle were registered in Indiana. A retail merchant that accepts an exemption claim for a cargo trailer or recreational vehicle under this section shall, within sixty (60) days after the date of the transaction, have on file a copy of the purchaser's title or registration of the cargo trailer or recreational vehicle outside Indiana or pay to the state the amount of the exemption.

(e) Any state gross retail tax due after the application of the exemption provided by this section must be paid to the retail merchant.

(f) A purchaser must claim an exemption under this section by submitting to the retail merchant an affidavit stating the purchaser's intent to:

- (1) transport the cargo trailer, recreational vehicle, or aircraft to a destination outside Indiana within thirty (30) days after delivery; and
- (2) title or register the cargo trailer, recreational vehicle, or aircraft for use in another state or country.

The department shall prescribe the form of the affidavit. The affidavit must identify the state or country in which the cargo trailer, recreational vehicle, or aircraft will be titled or registered. Within sixty (60) days after the date of the transaction, the purchaser shall provide to the retail merchant a copy of the purchaser's title or registration of the cargo trailer, recreational vehicle, or aircraft outside Indiana.

(g) The department shall provide the information necessary to calculate the amount of an exemption claimed under this section to retail merchants in the business of selling cargo trailers or recreational vehicles.

SECTION 4. IC 6-2.5-11-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) A certified service provider is the agent of a seller, with whom the certified service provider has contracted, for the collection and remittance of sales and use taxes. As the seller's agent, the certified service provider is liable for sales and use tax due each member state on all sales transactions it processes for the seller except as set out in this section. A seller that contracts with a certified service provider is not liable to the state for sales or use tax due on transactions processed by the certified service provider unless the seller misrepresented the type of items it sells or committed fraud. In the absence of probable cause to believe that the seller has committed fraud or made a material

misrepresentation, the seller is not subject to audit on the transactions processed by the certified service provider. A seller is subject to audit for transactions not processed by the certified service provider. The member states acting jointly may perform a system check of the seller and review the seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by the certified service provider.

(b) A person that provides a certified automated system is responsible for the proper functioning of that system and is liable to the state for underpayments of tax attributable to errors in the functioning of the certified automated system. A seller that uses a certified automated system remains responsible and is liable to the state for reporting and remitting tax.

(c) A seller that has a proprietary system for determining the amount of tax due on transactions and has signed an agreement establishing a performance standard for that system is liable for the failure of the system to meet the performance standard.

(d) The department shall allow any monetary allowances that are provided by the member states to sellers or certified service providers in exchange for collecting the sales and use taxes as provided in article VI of the agreement.

SECTION 5. [EFFECTIVE JULY 1, 2005] IC 6-2.5-5-39, as added by this act, applies to transactions occurring after June 30, 2005.

(Reference is to ESB 213 as reprinted March 25, 2005.)

M. YOUNG	WALORSKI
HUME	AGUILERA
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT ESB 444-1; filed April 29, 2005, at 1:47 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 444 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-2-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. The institute is established to do the following:

- (1) Evaluate state and local programs associated with:
 - (A) the prevention, detection, and solution of criminal offenses;
 - (B) law enforcement; and
 - (C) the administration of criminal and juvenile justice.
- (2) Improve and coordinate all aspects of law enforcement, juvenile justice, and criminal justice in this state.
- (3) Stimulate criminal and juvenile justice research.
- (4) Develop new methods for the prevention and reduction of crime.
- (5) Prepare applications for funds under the Omnibus Act and the Juvenile Justice Act.
- (6) Administer victim and witness assistance funds.
- (7) Administer the traffic safety functions assigned to the institute under IC 9-27-2.
- (8) Compile and analyze information and disseminate the information to persons who make criminal justice decisions in this state.
- (9) Serve as the criminal justice statistical analysis center for this state.
- (10) Establish and maintain, in cooperation with the office of the secretary of family and social services, a sex and violent offender directory.
- (11) Administer the application and approval process for designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.5.
- (12) Prescribe or approve forms as required under IC 5-2-12.

(13) Provide judges, law enforcement officers, prosecuting attorneys, parole officers, and probation officers with information and training concerning the requirements in IC 5-2-12 and the use of the sex and violent offender directory.

(14) Develop and maintain a meth watch program to inform retailers and the public about illicit methamphetamine production, distribution, and use in Indiana.

SECTION 2. IC 5-2-6-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 17. In consultation with the state police department and other law enforcement agencies, the institute shall operate and maintain a meth watch program to inform retailers and the public about illicit methamphetamine production, distribution, and use in Indiana.**

SECTION 3. IC 5-2-15 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 15. Methamphetamine Lab Reporting

Sec. 1. As used in this chapter, "law enforcement agency" has the meaning set forth in IC 10-11-8-2.

Sec. 2. As used in this chapter, "methamphetamine laboratory" means a location or facility that:

- (1) is being used;**
- (2) was intended to be used; or**
- (3) has been used;**

to produce methamphetamine.

Sec. 3. A law enforcement agency that terminates the operation of a methamphetamine laboratory shall report the existence and location of the methamphetamine laboratory to:

- (1) the state police department;**
- (2) the local fire department that serves the area in which the methamphetamine laboratory is located; and**
- (3) the county health department or, if applicable, multiple county health department of the county in which the methamphetamine laboratory is located;**

on a form and in the manner prescribed by guidelines adopted by the superintendent of the state police department under IC 10-11-2-31.

Sec. 4. A law enforcement agency that discovers a child less than fourteen (14) years of age at a methamphetamine laboratory shall notify the division of family and children.

SECTION 4. IC 10-11-2-31 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 31. (a) The superintendent shall adopt:**

- (1) guidelines; and**
- (2) a reporting form or a specified electronic format, or both;**

for the report of a methamphetamine laboratory by a law enforcement agency under IC 5-2-15-3.

(b) The guidelines adopted under this section must require a law enforcement agency to report the existence of a methamphetamine laboratory to:

- (1) the department;**
- (2) the local fire department that serves the area in which the methamphetamine laboratory is located; and**
- (3) the county health department or, if applicable, multiple county health department of the county in which the methamphetamine laboratory is located;**

on the form or in the specified electronic format adopted by the superintendent.

(c) The guidelines adopted under this section:

- (1) may incorporate a recommendation of the methamphetamine abuse task force (IC 5-2-14) that the superintendent determines to be relevant;**
- (2) may require the department to report the existence of the methamphetamine laboratory to one (1) or more additional agencies or organizations;**
- (3) must require the department to maintain reports filed under IC 5-2-15-3 in a manner permitting an accurate assessment of:**

(A) the number of methamphetamine laboratories located in Indiana in a specified period;

(B) the geographical dispersal of methamphetamine

laboratories located in Indiana in a specified period; and

(C) any other information that the superintendent determines to be relevant; and

(4) must require a law enforcement agency to report any other information that the superintendent determines to be relevant.

SECTION 5. IC 13-11-2-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 42. "Contaminant", for purposes of environmental management laws, means any solid, semi-solid, liquid, or gaseous matter, or any odor, radioactive material, pollutant (as defined by the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as in effect on January 1, 1989), hazardous waste (as defined in the federal Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), as in effect on January 1, 1989), any constituent of a hazardous waste, or any combination of the items described in this section, from whatever source, that:**

- (1) is injurious to human health, plant or animal life, or property;**
- (2) interferes unreasonably with the enjoyment of life or property; or**
- (3) otherwise violates:**

(A) environmental management laws; or

(B) rules adopted under environmental management laws.

The term includes chemicals used in the illegal manufacture of a controlled substance (as defined in IC 35-48-1-9) or an immediate precursor (as defined in IC 35-48-1-17) of a controlled substance, and waste produced from the illegal manufacture of a controlled substance or an immediate precursor of the controlled substance.

SECTION 6. IC 13-14-1-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 15. (a) The department shall maintain a list of persons certified to inspect and clean property that is polluted by a contaminant. The list may specifically note persons with particular expertise or experience in the inspection or cleanup of property contaminated by chemicals used in the illegal manufacture of a controlled substance (as defined in IC 35-48-1-9)**

or by waste produced from the illegal manufacture of a controlled substance.

(b) The department may specify by rule that a person who meets certain qualifications prescribed by the department is a person certified to inspect and clean property that is polluted by a contaminant.

(c) The department shall adopt rules under IC 4-22-2:

- (1) to implement this section; and**
- (2) concerning the inspection and remediation of contaminated property.**

SECTION 7. IC 34-30-2-152.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 152.2. IC 35-48-4-14.7 (Concerning a retailer who discloses information concerning the sale of a product containing ephedrine or pseudoephedrine).**

SECTION 8. IC 35-48-4-14.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 14.5. (a) As used in this section, "chemical reagents or precursors" refers to one (1) or more of the following:**

- (1) Ephedrine.**
- (2) Pseudoephedrine.**
- (3) Phenylpropanolamine.**
- (4) The salts, isomers, and salts of isomers of a substance identified in subdivisions (1) through (3).**
- (5) Anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1).**
- (6) Organic solvents.**
- (7) Hydrochloric acid.**
- (8) Lithium metal.**
- (9) Sodium metal.**
- (10) Ether.**
- (11) Sulfuric acid.**
- (12) Red phosphorous.**
- (13) Iodine.**
- (14) Sodium hydroxide (lye).**
- (15) Potassium dichromate.**

- (16) Sodium dichromate.
- (17) Potassium permanganate.
- (18) Chromium trioxide.
- (19) **Benzyl cyanide.**
- (20) **Phenylacetic acid and its esters or salts.**
- (21) **Piperidine and its salts.**
- (22) **Methylamine and its salts.**
- (23) **Isosafrole.**
- (24) **Safrole.**
- (25) **Piperonal.**
- (26) **Hydriodic acid.**
- (27) **Benzaldehyde.**
- (28) **Nitroethane.**
- (29) **Gamma-butyrolactone.**
- (30) **White phosphorus.**
- (31) **Hypophosphorous acid and its salts.**
- (32) **Acetic anhydride.**
- (33) **Benzyl chloride.**
- (34) **Ammonium nitrate.**
- (35) **Ammonium sulfate.**
- (36) **Hydrogen peroxide.**
- (37) **Thionyl chloride.**
- (38) **Ethyl acetate.**
- (39) **Pseudoephedrine hydrochloride.**

(b) A person who possesses more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, ~~the salts, isomers or salts of isomers of ephedrine; pseudoephedrine or phenylpropanolamine or a combination of any of these substances exceeding ten (10) grams pure or adulterated,~~ commits a Class D felony. However, the offense is a Class C felony if the person possessed:

- (1) a firearm while possessing more **than** ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, ~~the salts, isomers or salts of isomers of ephedrine; pseudoephedrine or phenylpropanolamine or a combination of any of these substances exceeding ten (10) grams; pure or adulterated;~~ or
- (2) more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, ~~the salts, isomers or salts of isomers of ephedrine; pseudoephedrine; or phenylpropanolamine; or a combination of any of these substances exceeding ten (10) grams pure or adulterated,~~ in, on, or within one thousand (1,000) feet of:

- (A) school property;
- (B) a public park;
- (C) a family housing complex; or
- (D) a youth program center.

(c) A person who possesses anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with the intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6, commits a Class D felony. However, the offense is a Class C felony if the person possessed:

- (1) a firearm while possessing anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6; or
- (2) anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6 in, on, or within one thousand (1,000) feet of:

- (A) school property;
- (B) a public park;
- (C) a family housing complex; or
- (D) a youth program center.

(d) Subsection (b) does not apply to a:

- (1) licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier or an agent of any of these persons if the possession is in the regular course of lawful business activities; or
- (2) person who possesses more than ten (10) grams of a substance described in subsection (b) if the substance is possessed under circumstances consistent with typical medicinal or household use, including:
 - (A) the location in which the substance is stored;
 - (B) the possession of the substance in a variety of:

- (i) strengths;
- (ii) brands; or
- (iii) types; or
- (C) the possession of the substance:
 - (i) with different expiration dates; or
 - (ii) in forms used for different purposes.

(e) A person who possesses two (2) or more chemical reagents or precursors with the intent to manufacture:

- (1) Methcathinone, a schedule I controlled substance under IC 35-48-2-4;
- (2) Methamphetamine, a schedule II controlled substance under IC 35-48-2-6;
- (3) Amphetamine, a schedule II controlled substance under IC 35-48-2-6; or
- (4) Phentermine, a schedule IV controlled substance under IC 35-48-2-10;

commits a Class D felony.

(f) An offense under subsection (e) is a Class C felony if the person possessed:

- (1) a firearm while possessing two (2) or more chemical reagents or precursors with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6; or
- (2) two (2) or more chemical reagents or precursors with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6 in, on, or within one thousand (1,000) feet of:
 - (A) school property;
 - (B) a public park;
 - (C) a family housing complex; or
 - (D) a youth program center.

(g) A person who sells, transfers, distributes, or furnishes a chemical reagent or precursor to another person with knowledge or the intent that the recipient will use the chemical reagent or precursors to manufacture methamphetamine, methcathinone, amphetamine, or phentermine commits unlawful sale of a precursor, a Class D felony.

SECTION 9. IC 35-48-4-14.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 14.7. (a) This section does not apply to the following:**

- (1) **Ephedrine or pseudoephedrine dispensed pursuant to a prescription.**
- (2) **The sale of a drug containing ephedrine or pseudoephedrine to a licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, or an agent of any of these persons if the sale occurs in the regular course of lawful business activities. However, a retail distributor, wholesaler, or manufacturer is required to report a suspicious order to the state police department in accordance with subsection (f).**
- (3) **The sale of a drug containing ephedrine or pseudoephedrine by a person who does not sell exclusively to walk-in customers for the personal use of the walk-in customers. However, if the person described in this subdivision is a retail distributor, wholesaler, or manufacturer, the person is required to report a suspicious order to the state police department in accordance with subsection (f).**

(b) **The following definitions apply throughout this section:**

- (1) **"Constant video monitoring" means the surveillance by an automated camera that:**
 - (A) **records at least one (1) photograph or digital image every ten (10) seconds;**
 - (B) **retains a photograph or digital image for at least seventy-two (72) hours;**
 - (C) **has sufficient resolution and magnification to permit the identification of a person in the area under surveillance; and**
 - (D) **stores a recorded photograph or digital image at a location that is immediately accessible to a law enforcement officer.**
- (2) **"Convenience package" means a package that contains a drug having as an active ingredient not more than one**

hundred twenty (120) milligrams of ephedrine or pseudoephedrine, or both.

(3) "Ephedrine" means pure or adulterated ephedrine.

(4) "Pseudoephedrine" means pure or adulterated pseudoephedrine.

(5) "Suspicious order" means a sale or transfer of a drug containing ephedrine or pseudoephedrine if the sale or transfer:

(A) is a sale or transfer that the retail distributor, wholesaler, or manufacturer is required to report to the United States Drug Enforcement Administration;

(B) appears suspicious to the retail distributor, wholesaler, or manufacturer in light of the recommendations contained in Appendix A of the report to the United States attorney general by the suspicious orders task force under the federal Comprehensive Methamphetamine Control Act of 1996; or

(C) is for cash or a money order in a total amount of at least two hundred dollars (\$200).

(6) "Unusual theft" means the theft or unexplained disappearance from a particular retail store of drugs containing ten (10) grams or more of ephedrine, pseudoephedrine, or both in a twenty-four (24) hour period.

(c) This subsection does not apply to a convenience package. A person may sell a drug that contains the active ingredient of ephedrine, pseudoephedrine, or both only if the person complies with the following conditions:

(1) The person does not sell the drug to a person less than eighteen (18) years of age.

(2) The person does not sell drugs containing more than three (3) grams of ephedrine or pseudoephedrine, or both in one (1) transaction.

(3) The person requires:

(A) the purchaser to produce a state or federal identification card;

(B) the purchaser to complete a paper or an electronic log in a format approved by the state police department with the purchaser's name, address, and driver's license or other identification number; and

(C) the clerk who is conducting the transaction to initial or electronically record the clerk's identification on the log.

Records from the completion of a log must be retained for at least two (2) years, and may be inspected by a law enforcement officer in accordance with state and federal law. A retailer who in good faith releases information maintained under this subsection is immune from civil liability unless the release constitutes gross negligence or intentional, wanton, or willful misconduct. This subdivision expires June 30, 2008.

(4) The person stores the drug:

(A) behind a counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to a customer without the assistance of an employee; or

(B) directly in front of the pharmacy counter in the direct line of sight of an employee at the pharmacy counter, in an area under constant video monitoring, if the drug is sold in a retail establishment that:

(i) is a pharmacy; or

(ii) contains a pharmacy that is open for business.

(d) A person may not purchase drugs containing more than three (3) grams of ephedrine, pseudoephedrine, or both in one (1) week.

(e) This subsection only applies to convenience packages. A person may not sell drugs containing more than one hundred twenty (120) milligrams of ephedrine or pseudoephedrine, or both in any one (1) transaction if the drugs are sold in convenience packages. A person who sells convenience packages must secure the convenience packages in at least one (1) of the following ways:

(1) The convenience package must be stored not more than thirty (30) feet away from a checkout station or counter and must be in the direct line of sight of an employee at the

checkout station or counter.

(2) The convenience package must be protected by a reliable anti-theft device that uses package tags and detection alarms designed to prevent theft.

(3) The convenience package must be stored in restricted access shelving that permits a purchaser to remove not more than one (1) package every fifteen (15) seconds.

(4) The convenience package must be stored in an area that is under constant video monitoring, and a sign placed near the convenience package must warn that the area is under constant video monitoring.

(f) A retail distributor, wholesaler, or manufacturer shall report a suspicious order to the state police department in writing.

(g) Not later than three (3) days after the discovery of an unusual theft at a particular retail store, the retailer shall report the unusual theft to the state police department in writing. If three (3) unusual thefts occur in a thirty (30) day period at a particular retail store, the retailer shall, for at least one hundred eighty (180) days after the date of the last unusual theft, locate all drugs containing ephedrine or pseudoephedrine at that particular retail store behind a counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to customers without the assistance of an employee.

(h) A unit (as defined in IC 36-1-2-23) may not adopt an ordinance after February 1, 2005, that is more stringent than this section.

(i) A person who knowingly or intentionally violates this section commits a Class C misdemeanor. However, the offense is a Class A misdemeanor if the person has a prior unrelated conviction under this section.

(j) Before June 30, 2007, the state police department shall submit a report to the legislative council detailing the effectiveness of this section in reducing the illicit production of methamphetamine. The report must describe the number of arrests or convictions that are attributable to the identification and logging requirements contained in this section, and must include recommendations for future action. The report must be in an electronic format under IC 5-14-6.

SECTION 10. [EFFECTIVE JULY 1, 2005] (a) The superintendent of the state police department shall adopt a form or a specified electronic format, or both, for the use of a retailer in recording a transaction involving a drug containing ephedrine or pseudoephedrine in accordance with IC 35-48-4-14.7, as added by this act.

(b) This SECTION expires June 30, 2008.

SECTION 11. [EFFECTIVE JULY 1, 2005] IC 35-48-4-14.5, as amended by this act, and IC 35-48-4-14.7, as added by this act, apply only to offenses committed after June 30, 2005.

(Reference is to ESB 444 as reprinted March 18, 2005.)

M. YOUNG	FRIEND
SKINNER	VAN HAAFTEN
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT EHB 1073-2; filed April 29, 2005, at 2:16 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1073 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-14-3-4, AS AMENDED BY P.L.173-2003, SECTION 5, AND AS AMENDED BY P.L.200-2003, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The following public

records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

- (1) Those declared confidential by state statute.
- (2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.
- (3) Those required to be kept confidential by federal law.
- (4) Records containing trade secrets.
- (5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.
- (6) Information concerning research, including actual research documents, conducted under the auspices of an institution of higher education, including information:
 - (A) concerning any negotiations made with respect to the research; and
 - (B) received from another party involved in the research.
- (7) Grade transcripts and license examination scores obtained as part of a licensure process.
- (8) Those declared confidential by or under rules adopted by the supreme court of Indiana.
- (9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.
- (10) Application information declared confidential by the twenty-first century research and technology fund board under IC 4-4-5.1.
- (11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.
- (12) A social security number contained in the records of a public agency.**

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

- (1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.
- (2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:
 - (A) a public agency;
 - (B) the state; or
 - (C) an individual.
- (3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.
- (4) Scores of tests if the person is identified by name and has not consented to the release of the person's scores.
- (5) The following:
 - (A) Records relating to negotiations between the ~~department of commerce~~, **Indiana economic development corporation**, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.
 - (B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the ~~department of commerce~~, **Indiana economic development corporation**, the Indiana development finance authority, the Indiana film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.
 - (C) When disclosing a final offer under clause (B), the ~~department of commerce~~ **Indiana economic development corporation** shall certify that the information being

disclosed accurately and completely represents the terms of the final offer.

- (6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.
- (7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.
- (8) Personnel files of public employees and files of applicants for public employment, except for:
 - (A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;
 - (B) information relating to the status of any formal charges against the employee; and
 - (C) ~~information concerning the factual basis for a disciplinary action~~ *actions* in which final action has been taken and that resulted in the employee being *disciplined* ~~suspended, demoted, or discharged~~.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

- (9) Minutes or records of hospital medical staff meetings.
- (10) Administrative or technical information that would jeopardize a record keeping or security system.
- (11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.
- (12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).
- (13) The work product of the legislative services agency under personnel rules approved by the legislative council.
- (14) The work product of individual members and the partisan staffs of the general assembly.
- (15) The identity of a donor of a gift made to a public agency if:
 - (A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or
 - (B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.
- (16) Library or archival records:
 - (A) which can be used to identify any library patron; or
 - (B) deposited with or acquired by a library upon a condition that the records be disclosed only:
 - (i) to qualified researchers;
 - (ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or
 - (iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

- (17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing ~~medical committee~~ *advisory board* **regarding the ability of a driver to operate a motor vehicle safely**. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations. ~~that concern the driver~~.

- (18) School safety and security measures, plans, and systems,

including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:

- (A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;
- (B) vulnerability assessments;
- (C) risk planning documents;
- (D) needs assessments;
- (E) threat assessments;
- (F) domestic preparedness strategies;
- (G) the location of community drinking water wells and surface water intakes;
- (H) the emergency contact information of emergency responders and volunteers;
- (I) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and
- (J) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport. The submitting public agency that owns, occupies, leases, or maintains the airport:

- (i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and
- (ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under ~~IC 5-14-3-4(19)(f)~~ IC 5-14-3-4(b)(19)(j) without approval of (insert name of submitting public agency)".

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

- (A) Telephone number.
- (B) Address.
- (C) Social Security number.

(21) The following personal information about a complainant contained in records of a law enforcement agency:

- (A) Telephone number.**
- (B) The complainant's address. However, if the complainant's address is the location of the suspected crime, infraction, accident, or complaint reported, the address shall be made available for public inspection and copying.**

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(e) Notwithstanding subsection (d) and section 7 of this chapter:

- (1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 2. IC 6-6-1.1-903 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 903. (a) A person is entitled to a refund of gasoline tax paid on gasoline purchased or used for the following purposes:

- (1) Operating stationary gas engines.
- (2) Operating equipment mounted on motor vehicles, whether or not operated by the engine propelling the motor vehicle.
- (3) Operating a tractor used for agricultural purposes.
- (3.1) Operating implements of husbandry agriculture (as defined in IC 9-13-2-77).
- (4) Operating motorboats or aircraft.
- (5) Cleaning or dyeing.
- (6) Other commercial use, except propelling motor vehicles operated in whole or in part on an Indiana public highway.
- (7) Operating a taxicab (as defined in section 103 of this chapter).

(b) If a refund is not issued within ninety (90) days of filing of the verified statement and all supplemental information required by IC 6-6-1.1-904.1, the department shall pay interest at the rate established by IC 6-8.1-9 computed from the date of filing of the verified statement and all supplemental information required by the department until a date determined by the administrator that does not precede by more than thirty (30) days the date on which the refund is made.

SECTION 3. IC 6-6-5-7.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.9. (a) As used in this section, "passenger motor vehicle" has the meaning set forth in IC 9-13-2-123(a).

(b) Notwithstanding any other law, and for calendar year 2006, the registration fee for a passenger motor vehicle that is registered in Indiana in calendar year 2005 shall be at the rate as set forth in IC 9-29-5-1 with no reduction for any partial calendar month that has elapsed since the regular annual registration date in calendar year 2005.

(c) This section expires January 1, 2007.

SECTION 4. IC 8-2.1-24-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) 49 CFR Parts 382 through 387, 390 through 393, and 395 through 398 is incorporated into Indiana law by reference, and, except as provided in subsections (d), (e), (f), and (g), must be complied with by an interstate and intrastate motor carrier of persons or property throughout Indiana. Intrastate motor carriers subject to compliance reviews under 49 CFR 385 shall be selected according to criteria determined by the superintendent which must include but is not limited to factors such as previous history of violations found in roadside compliance checks and other recorded violations. However, the provisions of 49 CFR 395 that regulate the hours of service of drivers, including requirements for the maintenance of logs, do not apply to a driver of a truck that is registered by the bureau of motor vehicles and used as a farm truck under IC 9-18, or a vehicle operated in intrastate construction or construction related service, or the restoration of public utility services interrupted by an emergency. Except as provided in subsection (i), intrastate motor carriers not operating under authority issued by the United States Department of Transportation shall comply with the requirements of 49 CFR 390.21(b)(3) by registering with the department of state revenue as an intrastate motor carrier and displaying the certification number issued by the department of state revenue preceded by the letters "IN". Except as provided in subsection (i), all other requirements of 49 CFR 390.21 apply equally to interstate and intrastate motor carriers.

(b) 49 CFR 107 subpart (F) and subpart (G), 171 through 173, 177 through 178, and 180, is incorporated into Indiana law by reference, and every:

- (1) private carrier;
- (2) common carrier;
- (3) contract carrier;
- (4) motor carrier of property, intrastate;
- (5) hazardous material shipper; and
- (6) carrier otherwise exempt under section 3 of this chapter; must comply with the federal regulations incorporated under this subsection, whether engaged in interstate or intrastate commerce.

(c) Notwithstanding subsection (b), nonspecification bulk and nonbulk packaging, including cargo tank motor vehicles, may be used only if all the following conditions exist:

- (1) The maximum capacity of the vehicle is less than three thousand five hundred (3,500) gallons.
- (2) The shipment of goods is limited to intrastate commerce.
- (3) The vehicle is used only for the purpose of transporting fuel oil, kerosene, diesel fuel, gasoline, gasohol, or any combination of these substances.

All additional federal standards for the safe transportation of hazardous materials apply until July 1, 2000. After June 30, 2000, the maintenance, inspection, and marking requirements of 49 CFR 173.8 and Part 180 are applicable. In accordance with federal hazardous materials regulations, new or additional nonspecification cargo tank motor vehicles may not be placed in service under this subsection after June 30, 1998.

(d) For the purpose of enforcing this section, only:

(1) a state police officer or state police motor carrier inspector who:

- (A) has successfully completed a course of instruction approved by the Federal Highway Administration; and
- (B) maintains an acceptable competency level as established by the state police department; or

(2) an employee of a law enforcement agency who:

- (A) before January 1, 1991, has successfully completed a course of instruction approved by the Federal Highway Administration; and
 - (B) maintains an acceptable competency level as established by the state police department;
- on the enforcement of 49 CFR, may, upon demand, inspect the books, accounts, papers, records, memoranda, equipment, and premises of any carrier, including a carrier exempt under section 3 of this chapter.

(e) A person hired before September 1, 1985, who operates a motor vehicle intrastate incidentally to the person's normal employment duties and who is not employed as a chauffeur (as defined in IC 9-13-2-21(a)) is exempt from 49 CFR 391 as incorporated by this section.

(f) Notwithstanding any provision of 49 CFR 391 to the contrary, a person at least eighteen (18) years of age and less than twenty-one (21) years of age may be employed as a driver to operate a commercial motor vehicle intrastate. However, a person employed under this subsection is not exempt from any other provision of 49 CFR 391.

(g) Notwithstanding subsection (a) or (b), the following provisions of 49 CFR do not apply to private carriers of property operated only in intrastate commerce or any carriers of property operated only in intrastate commerce ~~while employed in construction or construction related service whether or not the carrier vehicle is of a class that requires a commercial driver's license:~~

(1) Subpart 391.41(b)(3) as it applies to physical qualifications of a driver who has ~~applied for or holds a commercial driver's license (as defined in IC 9-13-2-29); been~~ diagnosed as an insulin dependent diabetic, if the driver has applied for and been granted an intrastate medical waiver by the bureau of motor vehicles **pursuant to this subsection. The same standards and the following procedures shall apply for this waiver whether or not the driver is required to hold a commercial driver's license. An application for the waiver shall be submitted by the driver and completed and signed by a certified endocrinologist or the driver's treating physician attesting that the driver:**

- (A) is **not** otherwise physically qualified **disqualified** under Subpart 391.41 to operate a motor vehicle, **whether or not any additional disqualifying condition results from the diabetic condition**, and is not likely to suffer any diminution in driving ability due to the driver's diabetic condition;
- (B) is free of severe hypoglycemia or hypoglycemia unawareness and has had less than one (1) documented, symptomatic hypoglycemic reaction per month;
- (C) has demonstrated the ability and willingness to properly monitor and manage the driver's diabetic condition;
- (D) has agreed to and, to the endocrinologist's or treating

physician's knowledge, has carried a source of rapidly absorbable glucose at all times while driving a motor vehicle, has self monitored blood glucose levels one (1) hour before driving and at least once every four (4) hours while driving or on duty before driving using a portable glucose monitoring device equipped with a computerized memory; and

(E) has submitted the blood glucose logs from the monitoring device to the endocrinologist or treating physician at the time of the annual medical examination.

A copy of the blood glucose logs shall be filed along with the annual statement from the endocrinologist or treating physician with the bureau of motor vehicles for review by the driver licensing medical advisory board established under IC 9-14-4. A copy of the annual statement shall also be provided to the driver's employer for retention in the driver's qualification file, and a copy shall be retained and held by the driver while driving for presentation to an authorized federal, state, or local law enforcement official.

Notwithstanding the requirements of this clause, the endocrinologist, the treating physician, the advisory board of the bureau of motor vehicles, or the bureau of motor vehicles may, where medical indications warrant, establish a short period for the medical examinations required under this clause.

(2) Subpart 396.9 as it applies to inspection of vehicles carrying or loaded with a perishable product. However, this exemption does not prohibit a law enforcement officer from stopping these vehicles for an obvious violation that poses an imminent threat of an accident or incident. The exemption is not intended to include refrigerated vehicles loaded with perishables when the refrigeration unit is working.

(3) Subpart 396.11 as it applies to driver vehicle inspection reports.

(4) Subpart 396.13 as it applies to driver inspection.

(h) For purposes of 49 CFR 395.1(l), "planting and harvesting season" refers to the period between January 1 and December 31 of each year. The intrastate commerce exception set forth in 49 CFR 395.1(l), as it applies to the transportation of agricultural commodities and farm supplies, is restricted to single vehicles and cargo tank motor vehicles with a capacity of not more than five thousand four hundred (5,400) gallons.

(i) The requirements of 49 CFR 390.21 do not apply to an intrastate carrier or a guest operator not engaged in interstate commerce and operating a motor vehicle as a farm vehicle in connection with agricultural pursuits usual and normal to the user's farming operation or for personal purposes unless the vehicle is operated either part time or incidentally in the conduct of a commercial enterprise.

(j) The superintendent of state police may adopt rules under IC 4-22-2 governing the parts and subparts of 49 CFR incorporated by reference under this section.

SECTION 5. IC 9-13-2-56 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 56. ~~(a) "Farm tractor"~~ means ~~except as provided in subsection (b), a motor vehicle designed and used primarily as a farm implement for drawing farm machinery including plows, mowing machines, harvesters, and other implements of husbandry, agriculture~~ used on a farm and, when using the highways, in traveling from one (1) field or farm to another or to or from places of repairs. The term includes a wagon, trailer, or other vehicle pulled by a farm tractor.

~~(b) "Farm tractor"; for purposes of IC 9-21, means a motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.~~

SECTION 6. IC 9-13-2-60 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 60. "Farm wagon" means a wagon, other than an implement of ~~husbandry, agriculture~~, used primarily for transporting farm products and farm supplies in connection with a farming operation.

SECTION 7. IC 9-13-2-77 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 77. ~~(a) "Implement of husbandry" agriculture~~ means ~~special farm machinery, farm machinery, and other agricultural implements, pull type and~~

self-propelled, ~~equipment~~ used for the: transportation and

- (1) transport;
- (2) delivery; or
- (3) application;

of ~~plant food materials or agricultural chemicals crop inputs, including seed, fertilizers, and crop protection products,~~ and vehicles designed to transport ~~farm~~ **these types of agricultural implements.**

(b) The bureau shall determine by rule under IC 4-22-2 whether a category of implement of agriculture was designed to be operated primarily:

- (1) in a farm field or on farm premises; or**
- (2) on a highway.**

SECTION 8. IC 9-13-2-92 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 92. (a) "Law enforcement officer", except as provided in subsection (b), includes the following:

- (1) A state police officer.
- (2) A city, town, or county police officer.
- (3) A sheriff.
- (4) A county coroner.
- (5) A conservation officer.

(6) An individual assigned as a motor carrier inspector under IC 10-11-2-26(a).

(b) "Law enforcement officer", for purposes of IC 9-30-5, IC 9-30-6, IC 9-30-7, IC 9-30-8, and IC 9-30-9, has the meaning set forth in IC 35-41-1.

SECTION 9. IC 9-13-2-105 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 105. (a) "Motor vehicle" means, except as otherwise provided in this section, a vehicle that is self-propelled. The term does not include a farm tractor, an implement of ~~husbandry, agriculture designed to be operated primarily in a farm field or on farm premises,~~ or an electric personal assistive mobility device.

(b) "Motor vehicle", for purposes of IC 9-21, means:

- (1) a vehicle except a motorized bicycle that is self-propelled; or
- (2) a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(c) "Motor vehicle", for purposes of IC 9-19-10.5 and IC 9-25, means a vehicle that is self-propelled upon a highway in Indiana. The term does not include a farm tractor.

(d) "Motor vehicle", for purposes of IC 9-30-10, does not include a motorized bicycle.

SECTION 10. IC 9-13-2-127 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 127. (a) "Police officer" means, except as provided in subsection (b), the following:

- (1) A regular member of the state police department.
- (2) A regular member of a city or town police department.
- (3) A town marshal or town marshal deputy.
- (4) A regular member of a county sheriff's department.
- (5) A conservation officer of the department of natural resources.

(6) An individual assigned as a motor carrier inspector under IC 10-11-2-26(a).

(b) "Police officer", for purposes of IC 9-21, means an officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

SECTION 11. IC 9-13-2-170.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 170.3. **"Special machinery" means a portable saw mill or well drilling machinery.**

SECTION 12. IC 9-13-2-180 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 180. "Tractor" means a motor vehicle designed and used primarily for drawing or propelling trailers, semitrailers, or vehicles of any kind. The term does not include ~~the following:~~

- ~~(1) a farm tractor.~~
- ~~(2) A farm tractor used in transportation.~~
- ~~(3) A tractor that is used exclusively for drawing a passenger carrying semitrailer.~~

SECTION 13. IC 9-13-2-188 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 188. (a) "Truck"

means a motor vehicle designed, used, or maintained primarily for the transportation of property.

(b) "Truck", for purposes of IC 9-21-8-3, includes the following:

- (1) A motor vehicle designed and used primarily for drawing another vehicle and constructed to carry a load other than a part of the weight of the vehicle and load so drawn.
- (2) A motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of ~~husbandry, agriculture.~~

SECTION 14. IC 9-13-2-196 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 196. (a) "Vehicle" means, except as otherwise provided in this section, a device in, upon, or by which a person or property is, or may be, transported or drawn upon a highway.

(b) "Vehicle", for purposes of IC 9-14 through IC 9-18, does not include the following:

- (1) A device moved by human power.
- (2) A vehicle that runs only on rails or tracks.
- (3) A vehicle propelled by electric power obtained from overhead trolley wires but not operated upon rails or tracks.
- (4) A firetruck and apparatus owned by a person or municipal division of the state and used for fire protection.
- (5) A municipally owned ambulance.
- (6) A police patrol wagon.
- (7) A vehicle not designed for or employed in general highway transportation of persons or property and occasionally operated or moved over the highway, including the following:
 - (A) Road construction or maintenance machinery.
 - (B) A movable device designed, used, or maintained to alert motorists of hazardous conditions on highways.
 - (C) Construction dust control machinery.
 - (D) Well boring apparatus.
 - (E) Ditch digging apparatus.
 - (F) An implement of ~~husbandry, agriculture designed to be operated primarily in a farm field or on farm premises.~~
 - (G) An invalid chair.
 - (H) A yard tractor.

(8) An electric personal assistive mobility device.

(c) For purposes of IC 9-20 and IC 9-21, the term does not include devices moved by human power or used exclusively upon stationary rails or tracks.

(d) For purposes of IC 9-22, the term refers to an automobile, a motorcycle, a truck, a trailer, a semitrailer, a tractor, a bus, a school bus, a recreational vehicle, or a motorized bicycle.

(e) For purposes of IC 9-30-5, IC 9-30-6, IC 9-30-8, and IC 9-30-9, the term means a device for transportation by land or air. The term does not include an electric personal assistive mobility device.

SECTION 15. IC 9-14-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The commissioner shall do the following:

(1) Administer and enforce:

(A) this title and other statutes concerning the bureau; and

~~(2) Administer and enforce~~

(B) the policies and procedures of the ~~commission, bureau.~~

~~(3) (2) Organize the bureau in the manner necessary to carry out the duties of the bureau.~~

~~(4) (3) Submit to the commission, before September 1 of each year budget proposals for the bureau including license branches staffed by employees of the commission under IC 9-16, to the budget director before September 1 of each year.~~

~~(5) (4) Perform other duties assigned by the commission, as required by the bureau.~~

SECTION 16. IC 9-14-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Except as provided in subsection (b), (d), or (e), the bureau shall prepare and deliver information on titles, registrations, and licenses and permits upon the request of any person. All requests must be:

(1) submitted in writing; or

(2) made electronically through the computer gateway administered by the intelnet commission under IC 5-21;

to the bureau and, unless exempted under IC 9-29, must be accompanied by the payment of the fee prescribed in IC 9-29-2-2.

- (b) The bureau shall not disclose:
- (1) the Social Security number;
 - (2) the federal identification number;
 - (3) the driver's license number;
 - (4) the digital image of the driver's license applicant;
 - (5) a reproduction of the signature secured under IC 9-24-9-1 or IC 9-24-16-3; or
 - (6) medical or disability information;

of any person except as provided in subsection (c).

- (c) The bureau may disclose any information listed in subsection (b):

- (1) to a law enforcement officer;
- (2) to an agent or a designee of the department of state revenue;
- (3) for uses permitted under IC 9-14-3.5-10(1), IC 9-14-3.5-10(4), IC 9-14-3.5-10(6), and IC 9-14-3.5-10(9); or
- (4) for voter registration and election purposes required under IC 3-7 or IC 9-24-2.5.

(d) As provided under 42 U.S.C. 1973gg-3(b), the commission may not disclose any information concerning the failure of an applicant for a motor vehicle driver's license to sign a voter registration application, except as authorized under IC 3-7-14.

(e) The commission may not disclose any information concerning the failure of an applicant for a title, registration, license, or permit (other than a motor vehicle license described under subsection (d)) to sign a voter registration application, except as authorized under IC 3-7-14.

SECTION 17. IC 9-14-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The board shall provide the commissioner **and the office of traffic safety created by IC 9-27-2-2** with assistance in the administration of Indiana driver licensing laws, including:

- (1) providing guidance to the commissioner in the area of licensing drivers with health or other problems that may adversely affect a driver's ability to operate a vehicle safely;
- (2) recommending factors to be used in determining qualifications and ability for issuance and retention of a driver's license; and
- (3) recommending and participating in the review of license suspension, restriction, or revocation appeal procedures, **including reasonable investigation into the facts of the matter.**

SECTION 18. IC 9-16-1-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. (a) The commission may contract with a qualified person to provide partial services at a qualified person's ~~walk-up~~ location, including locations within a facility used for other purposes, such as electronic titling and title application services and self-serve terminal access.

(b) A contract for providing motor vehicle registration and renewal services at a ~~walk-up~~ location must include the following provisions:

- (1) The contractor must provide trained personnel to properly process motor vehicle registration and renewal transactions.
- (2) The contractor shall do the following:
 - (A) Collect and transmit all bureau fees and taxes collected at the contract location.
 - (B) Deposit the taxes collected at the contract location with the county treasurer in the manner prescribed by IC 6-3.5 or IC 6-6-5.
- (3) The contractor shall provide fidelity bond coverage in an amount prescribed by the commission.
- (4) The contractor shall pay the cost of any post audits conducted by the commission or the state board of accounts on an actual cost basis.
- (5) The commission must approve each location and physical facility used by a contractor.
- (6) The term of the contract must be for a fixed period.

SECTION 19. IC 9-16-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. Each license branch, **full service provider, or partial services provider** shall collect the service charges prescribed by IC 9-29-3 and **deposit the service charges** in the state license branch fund established under IC 9-29-14.

SECTION 20. IC 9-18-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. This article does

not apply to the following:

- (1) Farm wagons.
- (2) Farm tractors.
- ~~(3) Farm machinery.~~

~~(4)~~ **(3)** A new motor vehicle if the new motor vehicle is being operated in Indiana solely to remove it from an accident site to a storage location because:

- (A) the new motor vehicle was being transported on a railroad car or semitrailer; and
- (B) the railroad car or semitrailer was involved in an accident that required the unloading of the new motor vehicle to preserve or prevent further damage to it.

(4) An implement of agriculture designed to be operated primarily in a farm field or on farm premises.

SECTION 21. IC 9-18-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The bureau shall register vehicles under the schedule in this section.

(b) A person who owns a vehicle shall receive a license plate, renewal tag, or other indicia upon registration of the vehicle. The bureau may determine the device required to be displayed.

(c) A corporation shall register, before February 1 of each year, the following vehicles that are owned by the corporation:

- (1) A passenger motor vehicle that is not regularly rented to others for not more than twenty-nine (29) days in the regular course of the corporation's business.
- (2) A recreational vehicle.
- (3) A motorcycle.
- (4) A truck that:

- (A) is not regularly rented to others for not more than twenty-nine (29) days in the regular course of the corporation's business; and
- (B) has a declared gross weight of not more than eleven thousand (11,000) pounds.

(d) A corporation that owns a:

- (1) passenger motor vehicle; or
- (2) truck that has a declared gross weight of not more than eleven thousand (11,000) pounds;

that is regularly rented to others for periods of not more than twenty-nine (29) days in the regular course of the corporation's business must register the passenger motor vehicle or truck before March 1 of each year.

(e) **For registrations for 2005**, a person who owns a:

- (1) passenger motor vehicle;
- (2) recreational vehicle;
- (3) motorcycle; or
- (4) truck that has a declared gross weight of not more than eleven thousand (11,000) pounds;

that is not subject to the registration requirements under subsection (d) shall register the passenger motor vehicle, recreational vehicle, motorcycle, or truck in conformance with the schedule set forth in subsection (f) **or (g).**

(f) After December 31, 2005, a person who owns a vehicle subject to registration under this subsection shall register the vehicle in accordance with subsection (g). The following schedule applies to persons who own vehicles that are required to be registered under subsection (e):

- (1) Persons whose last names begin with the letters A through BE shall register before February 16 of each year.
- (2) Persons whose last names begin with the letters BF through BZ shall register before March 1 of each year.
- (3) Persons whose last names begin with the letter C shall register before March 16 of each year.
- (4) Persons whose last names begin with the letter D shall register before April 1 of each year.
- (5) Persons whose last names begin with the letters E through F shall register before April 16 of each year.
- (6) Persons whose last names begin with the letter G shall register before May 1 of each year.
- (7) Persons whose last names begin with the letters HA through HN shall register before May 16 of each year.
- (8) Persons whose last names begin with the letters HO through I shall register before June 1 of each year.
- (9) Persons whose last names begin with the letters J through

KM shall register before June 16 of each year.

(10) Persons whose last names begin with the letters KN through L shall register before July 1 of each year.

(11) Persons whose last names begin with the letters MA through ME shall register before July 16 of each year.

(12) Persons whose last names begin with the letters MF through O shall register before August 1 of each year.

(13) Persons whose last names begin with the letters P through Q shall register before August 16 of each year.

(14) Persons whose last names begin with the letter R shall register before September 1 of each year.

(15) Persons whose last names begin with the letters SA through SN shall register before September 16 of each year.

(16) Persons whose last names begin with the letters SO through T shall register before October 1 of each year.

(17) Persons whose last names begin with the letters U through WK shall register before October 16 of each year.

(18) Persons whose last names begin with the letters WL through Z shall register before November 1 of each year.

(g) The bureau shall determine the schedule for registration for the categories of vehicles set forth in subsection (e) for registrations required after December 31, 2005.

~~(g)~~ **(h)** A person who owns a vehicle in a category required to be registered under subsection (c), (d), or (e), and who desires to register the vehicle for the first time must apply to the bureau for a registration application form. The bureau shall do the following:

- (1) Administer the registration application form.
- (2) Issue the license plate.
- (3) Collect the proper registration and service fees in accordance with the procedure established by the bureau.

~~(h)~~ **(i)** The bureau shall issue a semipermanent plate under section 30 of this chapter, or:

- (1) an annual renewal tag; or
- (2) other indicia;

to be affixed on the semipermanent plate.

SECTION 22. IC 9-18-2-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. (a) License plates shall be displayed as follows:

- (1) For a motorcycle, trailer, semitrailer, or recreational vehicle, upon the rear of the vehicle.
- (2) For a ~~farm tractor or~~ tractor, upon the front of the vehicle.
- (3) For every other vehicle, upon the rear of the vehicle.

(b) A license plate shall be securely fastened, in a horizontal position, to the vehicle for which the plate is issued:

- (1) to prevent the license plate from swinging;
- (2) at a height of at least twelve (12) inches from the ground, measuring from the bottom of the license plate;
- (3) in a place and position that are clearly visible;
- (4) maintained free from foreign materials and in a condition to be clearly legible; and
- (5) not obstructed or obscured by tires, bumpers, accessories, or other opaque objects.

(c) The bureau may adopt rules the bureau considers advisable to enforce the proper mounting and securing of license plates on vehicles consistent with this chapter.

SECTION 23. IC 9-18-2-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. Notwithstanding any other law, license plates, including personalized license plates, for:

- (1) passenger motor vehicles;
- (2) recreational vehicles;
- (3) motor vehicles registered to disabled veterans under IC 9-18-18; or
- (4) motor vehicles registered to former prisoners of war under IC 9-18-17;

that contain any of the numerals 1 through 100 following the prefix numbers and letter shall be issued ~~annually~~ **biennially** by the bureau.

SECTION 24. IC 9-18-2-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29. Except as otherwise provided, before:

- (1) a motor vehicle;
- (2) a motorcycle;
- (3) a truck;

(4) a trailer;

(5) a semitrailer;

(6) a tractor;

~~(7) an implement of husbandry or a farm tractor used in transportation;~~

~~(8) (7) a bus;~~

~~(9) (8) a school bus;~~

~~(10) (9) a recreational vehicle; or~~

~~(11) (10) special farm machinery;~~

is operated or driven on a highway, the person who owns the vehicle must register the vehicle with the bureau and pay the applicable registration fee.

SECTION 25. IC 9-18-2-29.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 29.5. Before a piece of special machinery is operated off a highway or in a farm field, the person who owns the piece of special machinery must:**

(1) register the piece of special machinery with the bureau; and

(2) pay the applicable registration fee.

SECTION 26. IC 9-18-2-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 43. (a) Notwithstanding any law to the contrary but except as provided in subsection (b), a law enforcement officer authorized to enforce motor vehicle laws who discovers a vehicle required to be registered under this article that does not have the proper certificate of registration or license plate:

- (1) shall take the vehicle into the officer's custody; and
- (2) may cause the vehicle to be taken to and stored in a suitable place until:

- (A) the legal owner of the vehicle can be found; or
- (B) the proper certificate of registration and license plates have been procured.

(b) **Except as provided in IC 9-21-21-7(b)**, a law enforcement officer who discovers a vehicle in violation of the registration provisions of this article has discretion in the impoundment of any of the following:

- (1) Perishable commodities.
- (2) Livestock.

~~(c) A person who recklessly violates this section commits a Class A misdemeanor.~~

SECTION 27. IC 9-19-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Except as provided in **subsections subsection (b) through (c)** and as otherwise provided in this chapter, this article does not apply to the following with respect to equipment on vehicles:

- (1) Implements of ~~husbandry~~ **agriculture designed to be operated primarily in a farm field or on farm premises.**
- (2) Road machinery.
- (3) Road rollers.
- (4) Farm tractors.
- (5) Vehicle chassis that:

- (A) are a part of a vehicle manufacturer's work in process; and
- (B) are driven under this subdivision only for a distance of less than one (1) mile.

~~(b) A farm type dry or liquid fertilizer tank trailer or spreader that is drawn or towed on a highway by:~~

- ~~(1) a farm tractor; or~~
- ~~(2) a motor vehicle at a speed not greater than thirty (30) miles per hour;~~

is considered an implement of husbandry with respect to equipment requirements and all the requirements of this article regarding lamps on combinations, including farm tractors, apply.

~~(c) (b)~~ **(b)** A farm type dry or liquid fertilizer tank trailer or spreader that is drawn or towed on a highway by a motor vehicle other than a farm tractor at a speed greater than thirty (30) miles per hour is considered a trailer for equipment requirement purposes and all equipment requirements concerning trailers apply.

SECTION 28. IC 9-19-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Sections 4 through 5 of this chapter and IC 9-19-4-3, IC 9-19-4-4, and IC 9-19-5-7:

- (1) do not apply to:

- (A) machinery or equipment used in highway construction or maintenance by the Indiana department of transportation, counties, or municipalities;
- (B) farm drainage machinery;
- (C) implements of ~~husbandry~~ **agriculture** when used during farming operations or when ~~so~~ constructed so that they can be moved without material damage to the highways; or
- (D) firefighting apparatus owned or operated by a political subdivision or a volunteer fire department (as defined in ~~IC 36-8-12-1~~; **IC 36-8-12-2**); and

(2) do not limit the width or height of farm vehicles when loaded with farm products.

SECTION 29. IC 9-19-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) A farm tractor and a self-propelled farm equipment unit or an implement of **husbandry agriculture designed to be operated primarily in a farm field or on farm premises, when operated on a highway** and not equipped with an electric lighting system, must, at all times required by IC 9-21-7-2, be equipped with the following:

- (1) At least one (1) lamp displaying a white light visible from a distance of not less than five hundred (500) feet to the front of the vehicle.
- (2) At least one (1) lamp displaying a red light visible from a distance of not less than five hundred (500) feet to the rear of the vehicle.
- (3) Two (2) red reflectors visible from a distance of one hundred (100) feet to six hundred (600) feet to the rear when illuminated by the upper beams of head lamps.

The lights required by this subsection must be positioned so that one (1) lamp showing to the front and one (1) lamp or reflector showing to the rear will indicate the furthest projection of the tractor, unit, or implement on the side of the road used in passing the vehicle.

(b) A combination of farm tractor and towed unit of farm equipment or implement of **husbandry agriculture designed to be operated primarily in a farm field or on farm premises, when operated on a highway** and not equipped with an electric lighting system, must, at all times required by IC 9-21-7-2, be equipped with two (2) red reflectors that meet the following requirements:

- (1) Are visible from a distance of one hundred (100) feet to six hundred (600) feet to the rear when illuminated by the upper beams of head lamps.
- (2) Are mounted in a manner so as to indicate as nearly as practicable the extreme left and right rear projections of the towed unit or implement on the highway.

(c) A farm tractor and a self-propelled unit of farm equipment or an implement of **husbandry agriculture designed to be operated primarily in a farm field or on farm premises, when operated on a highway** and equipped with an electric lighting system, must, at all times required by IC 9-21-7-2, be equipped with the following:

- (1) Two (2) single-beam or multiple-beam head lamps meeting the requirements of section 20 or 21 of this chapter or IC 9-21-7-9.
- (2) Two (2) red lamps visible from a distance of not less than five hundred (500) feet to the rear, or in the alternative, one (1) red lamp visible from a distance of not less than five hundred (500) feet to the rear and two (2) red reflectors visible from a distance of one hundred (100) feet to six hundred (600) feet to the rear when illuminated by the upper beams of head lamps.

The red lamps or reflectors must be mounted in the rear of the farm tractor or self-propelled implement of **husbandry agriculture** so as to indicate as nearly as practicable the extreme left and right projections of the vehicle on the highways.

(d) A combination of farm tractor and towed farm equipment or towed implement of **husbandry agriculture designed to be operated primarily in a farm field or on farm premises, when operated on a highway** and equipped with an electric lighting system, must, at all times required by IC 9-21-7-2, be equipped as follows:

- (1) The farm tractor element of each combination must be equipped with two (2) single-beam or multiple-beam head lamps meeting the requirements of section 20 or 21 of this chapter or IC 9-21-7-9.
- (2) The towed unit of farm equipment or implement of **husbandry agriculture** element of each combination must be

equipped with the following:

- (A) Two (2) red lamps visible from a distance of not less than five hundred (500) feet to the rear, or as an alternative, one (1) red lamp visible from a distance of not less than five hundred (500) feet to the rear.

- (B) Two (2) red reflectors visible from a distance of one hundred (100) feet to six hundred (600) feet to the rear when illuminated by the upper beams of head lamps.

The red lamps or reflectors must be located so as to indicate as nearly as practicable the extreme left and right rear projections of the towed unit or implement on the highway.

(3) A combination of farm tractor and towed farm equipment or towed implement of **husbandry agriculture** equipped with an electric lighting system must be equipped with the following:

- (A) A lamp displaying a white or an amber light, or any shade of color between white and amber, visible from a distance of not less than five hundred (500) feet to the front.
- (B) A lamp displaying a red light visible from a distance of not less than five hundred (500) feet to the rear.

The lamps must be installed or capable of being positioned so as to indicate to the front and rear the furthest projection of that combination on the side of the road used by other vehicles in passing that combination.

(e) A farm tractor, a self-propelled farm equipment unit, or an implement of **husbandry agriculture** must not display blinding field or flood lights when operated on a highway.

(f) All rear lighting requirements may be satisfied by having a vehicle with flashing lights immediately trail farm equipment in accordance with IC 9-21-7-11.

SECTION 30. IC 9-19-18-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Except as provided in subsections (b) through (d), a tire on a vehicle moved on a highway may not have on the tire's periphery a block, stud, flange, cleat, or spike or any other protuberance of any material other than rubber that projects beyond the tread of the traction surface of the tire.

(b) ~~Farm machinery~~ **Implements of agriculture** may use tires having protuberances that will not injure the highway.

(c) Tire chains of reasonable proportions may be used upon a vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid.

(d) From October 1 to the following May 1, a vehicle may use tires in which have been inserted ice grips or tire studs of wear-resisting material, installed in a manner that provides resiliency upon contact with the road, with projections that do not exceed three thirty-seconds (3/32) of an inch beyond the tread of the traction surface of the tire, and constructed to prevent any appreciable damage to the road surface.

SECTION 31. IC 9-19-18-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The Indiana department of transportation and local authorities in their respective jurisdictions may in their discretion issue special permits authorizing the operation upon a highway of:

- (1) traction engines; ~~or~~
- (2) tractors having movable tracks with transverse corrugations upon the periphery of movable tracks; or
- (3) farm tractors or ~~other farm machinery~~; **implements of agriculture designed to be operated primarily in a farm field or on farm premises;**

the operation of which upon a highway would otherwise be prohibited under this chapter.

SECTION 32. IC 9-20-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) As used in this section, "farm vehicle loaded with a farm product" includes a truck hauling unprocessed leaf tobacco.

(b) Except for interstate highway travel, this article does not apply to the following:

- (1) Machinery or equipment used in highway construction or maintenance by the Indiana department of transportation, counties, or municipalities.
- ~~(2) Farm drainage machinery;~~
- ~~(3) (2) Implements of husbandry agriculture~~ when used during farming operations or when ~~so~~ constructed so that the implements can be moved without material damage to the

highways.

(c) This article does not apply to firefighting apparatus owned or operated by a political subdivision or volunteer fire department (as defined in IC 36-8-12-2).

(d) Except for interstate highway travel, this article does not limit the width or height of a farm vehicle loaded with a farm product.

SECTION 33. IC 9-21-8-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) Except as provided in subsection (b), a stop or turn signal required under this chapter may be given by means of the hand and arm or by a signal lamp or lamps or mechanical signal device.

(b) This subsection does not apply to farm tractors and implements of agriculture designed to be operated primarily in a farm field or on farm premises. A motor vehicle in use on a highway must be equipped with and a required signal shall be given by a signal lamp or lamps or mechanical signal device when either of the following conditions exist:

(1) The distance from the center of the top of the steering post to the left outside limit of the body, cab, or load of the motor vehicle exceeds twenty-four (24) inches.

(2) The distance from the center of the top of the steering post to the rear limit of the body or load of the motor vehicle exceeds fourteen (14) feet. This measurement applies to a single vehicle and a combination of vehicles.

SECTION 34. IC 9-21-8-46 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 46. A person may not drive or operate:

(1) an implement of husbandry agriculture designed to be operated primarily in a farm field or on farm premises; or
(2) a piece of special machinery;

upon any part of an interstate highway.

SECTION 35. IC 9-21-8-47 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 47. The following vehicles must be moved or operated so as to avoid any material damage to the highway or unreasonable interference with other highway traffic:

(1) Machinery or equipment used in highway construction or maintenance by the Indiana department of transportation, counties, or municipalities.

(2) Farm drainage machinery.

(3) Implements of husbandry: agriculture.

(4) Firefighting apparatus owned or operated by a political subdivision or a volunteer fire department (as defined in IC 36-8-12-2).

(5) Farm vehicles loaded with farm products.

SECTION 36. IC 9-21-21 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 21. Farm Vehicles Involved in Commercial Enterprises

Sec. 1. A motor vehicle, trailer, or semitrailer and tractor may be operated primarily as a farm truck, farm trailer, or farm semitrailer and tractor if the vehicle meets the specifications set forth in IC 9-29-5-13(b).

Sec. 2. A farm truck described in section 1 of this chapter may be used for personal purposes if the vehicle otherwise qualifies for that class of registration.

Sec. 3. Except as provided in section 4 of this chapter, if the owner of a farm truck, farm trailer, or farm semitrailer and tractor described in section 1 of this chapter begins to operate the farm truck, farm trailer, or farm semitrailer and tractor or permits the farm truck, farm trailer, or farm semitrailer and tractor to be operated:

(1) in the conduct of a commercial enterprise; or

(2) for the transportation of farm products after the commodities have entered the channels of commerce during a registration year for which the license fee under IC 9-29-5-13 has been paid;

the owner shall pay the amount computed under IC 9-29-5-13.5(c) due for the remainder of the registration year for the license fee.

Sec. 4. Notwithstanding section 3 of this chapter and IC 9-18-2-4, the owner of a farm truck, farm trailer, or farm

semitrailer and tractor described in section 1 of this chapter or an employee or family member of the owner may operate the truck, trailer, or semitrailer and tractor intrastate for the transportation of seasonal, perishable fruit or vegetables to the first point of processing for a period of not more than one (1) thirty (30) day period in a registration year established by IC 9-18-2-7. Before a vehicle may be operated as provided in this subsection, the owner shall pay to the bureau:

(1) the license fee due under IC 9-29-5-13(b); and

(2) eight and one-half percent (8.5%) of the license fee paid under IC 9-29-5-13(b);

for the farm truck, farm trailer, or farm semitrailer and tractor. The bureau shall adopt rules under IC 4-22-2 to authorize the operation of a farm truck, farm trailer, or farm semitrailer and tractor in the manner provided in this subsection.

Sec. 5. In addition to the penalty provided in section 7 of this chapter, a person that operates a vehicle or allows a vehicle that the person owns to be operated when the vehicle is:

(1) registered under this chapter as a farm truck, farm trailer, or farm semitrailer and tractor; and

(2) operated as set forth in section 3 of this chapter;

commits a Class C infraction. However, the offense is a Class B infraction if, within the three (3) years preceding the commission of the offense, the person had a prior unrelated judgment under this section.

Sec. 6. For purposes of this chapter, the operation of a vehicle in violation of section 3 of this chapter is a continuing offense and the venue for prosecution lies in a county in which the unlawful operation occurred. However, a:

(1) judgment against; or

(2) finding by the court for;

the owner or operator bars a prosecution in another county.

Sec. 7. (a) Except as provided in subsection (b), a police officer who discovers a vehicle registered under this chapter as a farm truck, farm trailer, or farm semitrailer and tractor that is being operated as set forth in section 3 of this chapter:

(1) may take the vehicle into the police officer's custody; and

(2) may cause the vehicle to be taken to and stored in a suitable place until:

(A) the legal owner of the vehicle can be found; or

(B) the proper certificate of registration and license plates have been procured and the amount computed under IC 9-29-5-13.5 has been paid.

(b) A vehicle being operated in violation of section 3 of this chapter that is carrying perishable fruits or vegetables or livestock may not be impounded, and the operator may proceed to the point of destination after having been stopped by a police officer under subsection (a).

SECTION 37. IC 9-23-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) A license issued under this chapter may be denied, suspended, or revoked for any of the following:

(1) Material misrepresentation in the application for the license or other information filed with the commissioner.

(2) Lack of fitness under the standards set forth in this article or a rule adopted by the commissioner under this article.

(3) Willful failure to comply with the provisions of this article or a rule adopted by the commissioner under this article.

(4) Willful violation of a federal or state law relating to the sale, distribution, financing, or insuring of motor vehicles.

(5) Engaging in an unfair practice as set forth in this article or a rule adopted by the commissioner under this article.

(6) Violating IC 23-2-2.7.

(b) Except as provided in subsection (d), the procedures set forth in IC 4-21.5 govern the denial, suspension, or revocation of a license and a judicial review. However, A denial, suspension, or revocation of a license takes effect after the commissioner makes a determination and notice of the determination has been served upon the affected person.

(b) If the bureau denies, suspends, or revokes a license issued or sought under this article, the affected person may file an action in the circuit court of Marion County, Indiana, or the circuit court of the

Indiana county in which the person's principal place of business is located, seeking a judicial determination as to whether the action is proper. ~~An action may not take effect until thirty (30) days after the commissioner's determination has been made and a notice of the determination served upon the affected person.~~ The filing of an action as described in this section within the thirty (30) day period is an automatic stay of the commissioner's determination.

(c) Revocation or suspension of a license of a manufacturer, a distributor, a factory branch, a distributor branch, a dealer, or an automobile auctioneer may be limited to one (1) or more locations, to one (1) or more defined areas, or only to certain aspects of the business.

(d) A license may be denied, suspended, or revoked for violating IC 9-19-1. IC 4-21.5-4 governs the denial, suspension, or revocation of a license under this subsection. The bureau may issue a temporary order to enforce this subsection.

SECTION 38. IC 9-24-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. Sections 1 through 5 of this chapter do not apply to the following individuals:

(1) An individual in the service of the armed forces of the United States while operating an official motor vehicle in that service.

(2) An individual while operating: ~~an~~

(A) a road roller;

(B) road construction or maintenance machinery, except where the road roller or machinery is required to be registered under Indiana law;

(C) a ditch digging apparatus;

(D) a well drilling apparatus;

(E) a concrete mixer; or

(F) a farm tractor or an implement of ~~husbandry~~; **agriculture designed to be operated primarily in a farm field or on farm premises;**

that is being temporarily drawn, moved, or propelled on an Indiana public highway.

(3) A nonresident who:

(A) is at least sixteen (16) years and one (1) month of age; and

(B) has in the nonresident's immediate possession a valid operator's license that was issued to the nonresident in the nonresident's home state or country;

while operating a motor vehicle in Indiana only as an operator.

(4) A nonresident who:

(A) is at least eighteen (18) years of age; and

(B) has in the nonresident's immediate possession a valid chauffeur's license that was issued to the nonresident in the nonresident's home state or country;

while operating a motor vehicle upon a public highway, either as an operator or a chauffeur.

(5) A nonresident who:

(A) is at least eighteen (18) years of age; and

(B) has in the nonresident's immediate possession a valid license issued by the nonresident's home state for the operation of any motor vehicle upon a public highway when in use as a public passenger carrying vehicle;

while operating a motor vehicle upon a public highway.

(6) A nonresident whose home state or country does not require the licensing of operators or chauffeurs and who has not been licensed as an operator or a chauffeur in the nonresident's home state or country as an operator if the nonresident is at least sixteen (16) years and thirty (30) days of age and less than eighteen (18) years of age or as a chauffeur if the nonresident is at least eighteen (18) years of age, for not more than sixty (60) days in any one (1) year if the following conditions exist:

(A) The unlicensed nonresident is the owner of the motor vehicle or the authorized driver of the vehicle.

(B) The vehicle has been registered for the current year in the state or country of which the owner is a resident.

(C) The motor vehicle at all times displays a registration plate issued in the home state or country of the owner.

(D) The nonresident owner or driver has in the owner's or driver's immediate possession a registration card evidencing ownership and registration in the owner's or driver's home

state or country or is able at any required time or place to do the following:

(i) Prove lawful possession or the right to operate the motor vehicle.

(ii) Establish the nonresident's proper identity.

(7) An individual who is legally licensed to operate a motor vehicle in the state of the individual's residence and who is employed in Indiana, subject to the restrictions imposed by the state of the individual's residence.

(8) A new resident of Indiana who possesses an unexpired driver's license issued by the resident's former state of residence, for a period of sixty (60) days after becoming a resident of Indiana.

(9) An individual who is an engineer, a conductor, a brakeman, or another member of the crew of a locomotive or a train that is being operated upon rails, including the operation of the locomotive or the train on a crossing over a street or a highway. An individual described in this subdivision is not required to display a license to a law enforcement officer in connection with the operation of a locomotive or a train in Indiana.

SECTION 39. IC 9-24-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Examinations shall be held in the ~~city or town~~ county where the license branch office in which the application was made is located, within a reasonable length of time following the date of the application.

SECTION 40. IC 9-24-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) If the bureau has good cause to believe that a licensed ~~operator or chauffeur driver~~ is:

(1) incompetent; or

(2) otherwise not qualified to be licensed;

the bureau may, upon written notice of at least five (5) days, require the licensed ~~operator or chauffeur driver~~ to submit to an examination.

The bureau also may conduct a reasonable investigation of the driver's continued fitness to operate a motor vehicle safely, including requesting medical information from the driver or the driver's health care sources.

(b) Upon the conclusion of an examination ~~or investigation~~ under this section, the bureau:

(1) shall take appropriate action; and

(2) may:

(A) suspend or revoke the license of the licensed ~~operator or chauffeur driver~~;

(B) permit the licensed ~~operator or chauffeur driver~~ to retain the license of the licensed ~~operator or chauffeur driver~~; or

(C) issue a **restricted** license subject to restrictions considered necessary in the interest of public safety.

(c) If a licensed ~~operator or chauffeur driver~~ refuses or neglects to submit to an examination under this section, the bureau may suspend or revoke the license of the licensed ~~operator or chauffeur driver~~. **The bureau may not suspend or revoke the license of the licensed driver until a reasonable investigation of the driver's continued fitness to operate a motor vehicle safely has been made by the bureau.**

(d) A licensed ~~operator or chauffeur driver~~ may appeal an action taken by the bureau under this section to the circuit court or superior court of the county in which the licensed ~~operator or chauffeur driver~~ resides.

SECTION 41. IC 9-24-10-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.5. **A physician licensed to practice medicine under IC 25-22.5, an optometrist licensed to practice optometry under IC 25-24, or an advanced practice nurse licensed under IC 25-23 who has personally examined the patient not more than thirty (30) days before making a report concerning the patient's fitness to operate a motor vehicle is not civilly or criminally liable for a report made in good faith to the:**

(1) bureau;

(2) commission; or

(3) driver licensing medical advisory board;

concerning the fitness of a patient of the physician, optometrist, or advanced practice nurse to operate a motor vehicle in a manner that does not jeopardize the safety of individuals or

property.

SECTION 42. IC 9-24-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Except as provided in subsection (b) **and section 10 of this chapter**, an operator's license issued under this article after December 31, 1996, **and before January 1, 2006**, expires at midnight of the birthday of the holder that occurs four (4) years following the date of issuance.

(b) **Except as provided in section 10 of this chapter**, an operator's license issued after December 31, 1996, to an applicant who is at least seventy-five (75) years of age expires at midnight of the birthday of the holder that occurs three (3) years following the date of issuance. (c) **Except as provided in subsection (b) and section 10 of this chapter, after December 31, 2005, an operator's license issued under this article expires at midnight of the birthday of the holder that occurs six (6) years following the date of issuance.**

SECTION 43. IC 9-24-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) **Except as provided in section 10 of this chapter**, a chauffeur's license issued under this article after December 31, 1996, **and before January 1, 2006**, expires at midnight of the birthday of the holder that occurs four (4) years following the date of issuance.

(b) **After December 31, 2005, and except as provided in section 10 of this chapter, a chauffeur's license issued under this article expires at midnight of the birthday of the holder that occurs six (6) years following the date of issuance.**

SECTION 44. IC 9-24-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. ~~(a)~~ An individual ~~who applies~~ **applying** for renewal of an operator's, a motorcycle operator's, a chauffeur's, or a public passenger chauffeur's license **must apply** in person at a license branch ~~must and~~ do the following:

(1) Pass an eyesight examination.

(2) Pass a written examination if:

(A) the applicant has at least six (6) active points on the applicant's driving record maintained by the bureau; or

(B) the applicant holds a valid operator's license but has not reached the applicant's twenty-first birthday.

~~(b)~~ **An individual may apply for renewal of an operator's, a motorcycle operator's, a chauffeur's, or a public passenger chauffeur's license by mail or by electronic service if the following conditions are met:**

(1) A valid computerized image of the individual exists within the records of the bureau;

(2) The previous renewal of the operator's, motorcycle operator's, chauffeur's, or public passenger chauffeur's license was not made by mail or by electronic service;

(3) The previous renewal included a test approved by the bureau of the applicant's eyesight;

(4) The applicant, if applying for the renewal in person at a license branch, would not be required under subsection ~~(a)~~(2) to submit to a written examination;

~~(c)~~ **An individual applying for the renewal of an operator's, a motorcycle operator's, a chauffeur's, or a public passenger chauffeur's license must apply in person at a license branch under subsection (a) if the individual is not entitled to apply by mail or by electronic service under subsection (b):**

SECTION 45. IC 9-24-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) Except as provided in subsection (b) **and section 10 of this chapter**, a motorcycle operator's license issued after December 31, 1996, **and before January 1, 2006**, expires at midnight of the birthday of the holder that occurs four (4) years following the date of issuance.

(b) **Except as provided in section 10 of this chapter**, a motorcycle operator's license issued after December 31, 1996, to an applicant who is at least seventy-five (75) years of age expires at midnight of the birthday of the holder that occurs three (3) years following the date of issuance.

(c) **After December 31, 2005, except as provided in subsection (b), a motorcycle operator's license issued under this article expires at midnight of the birthday of the holder that occurs six (6) years following the date of issuance.**

~~(c)~~ **(d)** A motorcycle operator endorsement remains in effect for the same term as the license being endorsed and is subject to renewal

at and after the expiration of the license in accordance with this chapter.

~~(d)~~ **(e)** A temporary motorcycle learner's permit is valid for twelve (12) months from date of issuance.

SECTION 46. IC 9-24-12-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 10. After June 30, 2005:**

(1) an operator's;

(2) a chauffeur's; or

(3) a motorcycle operator's;

license issued to or renewed by a driver who is at least eighty-five (85) years of age expires at midnight of the birthday of the holder that occurs two (2) years following the date of issuance.

SECTION 47. IC 9-24-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. An identification card **issued:**

(1) before January 1, 2006, expires on the fourth birthday of the applicant following the date of issue; **and**

(2) after December 31, 2005, expires at midnight of the birthday of the holder that occurs six (6) years following the date of issuance.

SECTION 48. IC 9-24-16-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) An application for renewal of an identification card may be made not more than six (6) months before the expiration date of the card. A renewal application received after the date of expiration is considered to be a new application.

(b) A renewed card **issued:**

(1) before January 1, 2006, becomes valid on the birth date of the holder and remains valid for four (4) years; **and**

(2) after December 31, 2005, is valid on the birth date of the holder and remains valid for six (6) years.

(c) If renewal has not been made within six (6) months after expiration, the bureau shall destroy all records pertaining to the former cardholder.

(d) Renewal may not be granted if the cardholder was issued a driver's license subsequent to the last issuance of an identification card.

~~(e)~~ **An individual may apply for renewal of an identification card by mail or by electronic service if the following conditions are met:**

~~(1)~~ **A valid computerized image of the individual exists within the records of the bureau;**

~~(2)~~ **The previous renewal of the identification card was not made by mail or by electronic service;**

SECTION 49. IC 9-25-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) The bureau shall reinstate the current driving license or vehicle registration, or both:

(1) subject to section 15 of this chapter, after ninety (90) days of suspension;

(A) except as provided in sections 19, 20, and 21(b) of this chapter, if the person has furnished the bureau with a certificate of compliance showing that financial responsibility is in effect with respect to the vehicle; or

(B) if the person is no longer an owner of the vehicle or the registration of the vehicle has been canceled or has expired;

(2) if the person is subject to section 21(b) of this chapter and to ~~IC 9-29-13-1, IC 9-29-10-1~~, after thirty (30) days of suspension;

(3) subject to section 15 of this chapter, when the person furnishes the bureau with a certificate of compliance showing that financial responsibility is in effect with respect to the vehicle if:

(A) subdivision (1)(B) does not apply; and

(B) the person fails to furnish the bureau with a certificate of compliance as described in subdivision (1)(A) within ninety (90) days after the current driving license of the person is suspended; or

(4) if financial responsibility was in effect with respect to a vehicle on the date of the accident but the person does not provide the bureau with a certificate of compliance indicating this fact until after the person's current driving license is suspended under this chapter, the person's current driving

license shall be reinstated when the person provides the certificate of compliance to the bureau and complies with section 15 of this chapter.

(b) Upon receipt of a certificate of compliance under this section, the bureau shall expunge from the bureau's data base the administrative suspension caused by the failure to notify the bureau that the person had financial responsibility in effect on the date of the violation.

SECTION 50. IC 9-26-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The driver of a vehicle involved in an accident that results in the injury or death of a person shall do the following:

- (1) Immediately stop the vehicle at the scene of the accident or as close to the accident as possible in a manner that does not obstruct traffic more than is necessary.
- (2) Immediately return to and remain at the scene of the accident until the driver does the following:
 - (A) Gives the driver's name and address and the registration number of the vehicle the driver was driving.
 - (B) Upon request, exhibits the driver's license of the driver to the following:
 - (i) The person struck.
 - (ii) The driver or occupant of or person attending each vehicle involved in the accident.
 - (C) Determines the need for and renders reasonable assistance to each person injured in the accident, including the removal or the making of arrangements for the removal of each injured person to a physician or hospital for medical treatment.
- (3) Immediately give notice of the accident by the quickest means of communication to one (1) of the following:
 - (A) The local police department if the accident occurs within a municipality.
 - (B) The office of the county sheriff or the nearest state police post if the accident occurs outside a municipality.
- (4) Within ten (10) days after the accident, forward a written report of the accident to the:
 - (A) state police department, **if the accident occurs before January 1, 2006; or**
 - (B) **bureau, if the accident occurs after December 31, 2005.**

SECTION 51. IC 9-26-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The driver of a vehicle involved in an accident that does not result in injury or death of a person but that does result in damage to a vehicle that is driven or attended by a person shall do the following:

- (1) Immediately stop the vehicle at the scene of the accident or as close to the accident as possible in a manner that does not obstruct traffic more than is necessary.
- (2) Immediately return to and remain at the scene of the accident until the driver does the following:
 - (A) Gives the driver's name and address and the registration number of the vehicle the driver was driving.
 - (B) Upon request, exhibits the driver's license of the driver to the driver or occupant of or person attending each vehicle involved in the accident.
- (3) If the accident results in total property damage to an apparent extent of at least one thousand dollars (\$1,000), forward a written report of the accident to the:
 - (A) state police department, **if the accident occurs before January 1, 2006; or**
 - (B) **bureau, if the accident occurs after December 31, 2005;**

within ten (10) days after the accident.

SECTION 52. IC 9-26-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The state police department may ~~do the following~~:

- ~~(1) Require a driver who is required to file a report under this chapter to file supplemental reports if the original report is insufficient in the opinion of the state police department;~~
- ~~(2) require witnesses of accidents to submit reports to the state police department.~~

SECTION 53. IC 9-26-1-7 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) A city or town may by ordinance require that the driver of a vehicle involved in an accident file with a designated city or town department:

- (1) a report of the accident; or
- (2) a copy of a report required in this article to be filed with the:
 - (A) state police department; **or**
 - (B) **bureau.**

(b) An accident report required to be filed under subsection (a) is for the confidential use of the designated city or town department and subject to IC 9-26-3-4.

SECTION 54. IC 9-27-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The office shall do the following to carry out this chapter:

- (1) Develop, plan, and conduct programs and activities designed to prevent and reduce traffic accidents and to facilitate the control of traffic on Indiana streets and highways.
- (2) Advise, recommend, and consult with state departments, divisions, boards, commissions, and agencies concerning traffic safety, accident prevention, and traffic facilitation programs and activities and coordinate these programs and activities on an effective statewide basis.
- (3) Organize and conduct, in cooperation with state departments and agencies, programs, services, and activities designed to aid political subdivisions in the control of traffic and prevention of traffic accidents.
- (4) Develop informational, educational, and promotional material on traffic control and traffic accident prevention, disseminate the material through all possible means of public information, and serve as a clearinghouse for information and publicity on traffic control and accident prevention programs and activities of state departments and agencies. **These activities must include materials and information designed to make senior citizens aware of the effect of age on driving ability.**
- (5) Cooperate with public and private agencies interested in traffic control and traffic accident prevention in the development and conduct of public informational and educational activities designed to promote traffic safety or to support the official traffic safety program of Indiana.
- (6) Study and determine the merits of proposals affecting traffic control, traffic safety, or traffic accident prevention activities in Indiana and recommend to the governor and the general assembly the measures that will serve to further control and reduce traffic accidents.
- (7) Study proposed revisions and amendments to the motor vehicle laws and all other laws concerning traffic safety and make recommendations relative to those laws to the governor and general assembly.
- (8) Develop and conduct a program of effective alcohol and drug countermeasures to protect and conserve life and property on Indiana streets and highways.
- (9) Administer the operation lifesaver program referred to in section 12 of this chapter to promote and coordinate public education concerning railroad grade crossing safety.

SECTION 55. IC 9-27-4-5.5, AS AMENDED BY HEA 1288-2005, SEC. 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.5. (a) ~~To receive be eligible for~~ an instructor's license under subsection (d), an individual must complete at least sixty (60) semester hours at a college. The individual must:

- (1) complete at least ~~twelve (12)~~ **nine (9)** semester hours in driver education courses; ~~of which three (3) semester hours must consist of supervised student teaching experience under the direction of an individual who has:~~
- ~~(1) a driver and traffic safety education endorsement issued by the professional standards board established by IC 20-28-2-1; and~~
- (2) **be at least five (5) twenty-one (21) years of teaching experience in driver education: age upon completion of the driver education courses required by subdivision (1).**
- (b) ~~The three (3) semester hours of supervised student teaching experience required under subsection (a) may only be undertaken by an individual who will be at least twenty-one (21) years of age upon~~

completion and may only be performed at a high school, a commercial driving school, or the college providing the courses for the individual to become an instructor. The remaining nine (9) **number of semester** hours of driver education courses required under subsection ~~(a)~~ **(a)(1)** must include a combination of theoretical and behind-the-wheel instruction that is consistent with nationally accepted standards in traffic safety.

(c) The driver education semester hours **required completed** under subsection ~~(a)~~ **(a)(1)** do not satisfy the requirements of subsection (d) or (e) unless the driver education curriculum is approved by the commission for higher education.

(d) The bureau shall issue an instructor's license to an individual who satisfies all of the following:

- (1) The individual meets the requirements of subsection (a).
- (2) The individual does not have more than the maximum number of points for violating traffic laws specified by the bureau by rules adopted under IC 4-22-2.
- (3) The individual has a good moral character, physical condition, knowledge of the rules of the road, and work history. The bureau shall adopt rules under IC 4-22-2 that specify the requirements, including requirements about criminal convictions, necessary to satisfy the conditions of this subdivision.

(e) The bureau shall issue an instructor's license to an individual who:

- (1) during 1995, held an instructor's license;
- (2) meets the requirements of subsection (d)(2) and (d)(3); and
- (3) **completes completed** the ~~twelve (12)~~ **number of** semester hours of driver education courses **that were then** required under subsection ~~(a)~~ **(a)(1)** not later than July 1, 1999.

However, an individual who has acted as an instructor for at least two (2) years before January 1, 1996, is not required to complete the requirements of subdivision (3) in order to receive an instructor's license under this subsection.

(f) The bureau shall issue an instructor's license to an individual who:

- (1) holds a driver and traffic safety education endorsement issued by the professional standards board established by IC 20-28-2-1; and
- (2) meets the requirements of subsection (d)(2) and (d)(3).

(g) Only an individual who holds an instructor's license issued by the bureau under subsection (d), (e), or (f) may act as an instructor.

SECTION 56. IC 9-29-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The fee to obtain information ~~on~~ **regarding vehicle titles registrations, and driver's licenses** under IC 9-14-3-5 is:

- (1) four dollars (\$4) for each record requested **in writing; and**
- (2) **a fee to be determined by the bureau not to exceed four dollars (\$4), in conformance with IC 5-14-3-8, for each record requested electronically through the computer gateway administered by the intelenet commission under IC 5-21;**

plus any service fee charged by the intelenet commission.

(b) The fee to obtain information regarding a license, vehicle registration, or permit under IC 9-14-3-5 is four dollars (\$4) for a record requested either:

- (1) in writing; or
- (2) **electronically through the computer gateway administered by the intelenet commission under IC 5-21;**

plus any service fee charged by the intelenet commission.

~~(b)~~ (c) The fee imposed by this section and **paid to the bureau** is in lieu of fees established under IC 5-14-3-8 and does not apply to a law enforcement agency or an agency of government.

SECTION 57. IC 9-29-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The service charge for each of the first two thousand (2,000) operator's licenses, including motorcycle operator's licenses, issued at a license branch each year is two dollars (\$2). **This subsection expires December 31, 2005.**

(b) The service charge for each additional operator's license or motorcycle operator's license issued at that license branch each year is one dollar and fifty cents (\$1.50). **This subsection expires December 31, 2005.**

(c) Fifty cents (\$0.50) of each service charge collected under this section shall be deposited in the state motor vehicle technology fund established by IC 9-29-16-1.

(d) After December 31, 2005, the service charge for an operator's license is three dollars (\$3).

SECTION 58. IC 9-29-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The service charge for each learner's permit, chauffeur's license, or public passenger chauffeur's license is two dollars (\$2). **This subsection expires December 31, 2005.**

(b) Fifty cents (\$0.50) of each service charge collected under ~~subsection (a)~~ **this section** shall be deposited in the state motor vehicle technology fund established by IC 9-29-16-1.

(c) After December 31, 2005, the service charge for a learner's permit, public passenger chauffeur's license, or chauffeur's license issued to or renewed for an individual who is at least seventy-five (75) years of age is two dollars (\$2). After December 31, 2005, the service charge for a chauffeur's license issued to or renewed for an individual less than seventy-five (75) years of age is three dollars (\$3).

SECTION 59. IC 9-29-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) The service charge for each temporary motorcycle learner's permit, motorcycle learner's permit, or motorcycle endorsement of an operator's license is one dollar and fifty cents (\$1.50). **This subsection expires December 31, 2005.**

(b) Fifty cents (\$0.50) of each service charge collected under ~~subsection (a)~~ **this section** shall be deposited in the state motor vehicle technology fund established by IC 9-29-16-1.

(c) After December 31, 2005, the service charge for a temporary motorcycle learner's permit, motorcycle learner's permit, or motorcycle endorsement of an operator's license issued to or renewed for an individual who is at least seventy-five (75) years of age is one dollar and fifty cents (\$1.50). After December 31, 2005, the service charge for a motorcycle endorsement of an operator's license issued to or renewed for an individual less than seventy-five (75) years of age is two dollars and twenty-five cents (\$2.25).

SECTION 60. IC 9-29-3-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) The service charge for an identification card issued under IC 9-24 is fifty cents (\$0.50) and one-half (½) of each fee collected as set forth in IC 9-29-9-15. **This subsection expires December 31, 2005.**

(b) Fifty cents (\$0.50) of each service charge collected under ~~subsection (a)~~ **this section** shall be deposited in the state motor vehicle technology fund established by IC 9-29-16-1.

(c) After December 31, 2005, the service charge for an identification card issued under IC 9-24 is seventy-five cents (\$0.75) and one-half (½) of each fee collected as set forth in IC 9-29-9-15.

SECTION 61. IC 9-29-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) This section does not apply to a vehicle or person exempted from registration under IC 9-18.

(b) The license fee for a ~~motor vehicle that has: (1) a corn shelter;~~ (2) a well driller; (3) a hay press; (4) a clover huller; (5) a farm wagon type liquid fertilizer tank trailer; or (6) farm machinery; that is permanently mounted on the motor vehicle and used solely for transporting the equipment ~~piece of special machinery~~ is five dollars (\$5). The motor vehicle is exempt from other fees provided under IC 9-18 or this article.

(c) The license fee for a farm wagon used for transporting farm products and farm supplies in connection with a farming operation is five dollars (\$5). The farm wagon is exempt from other fees provided under ~~IC 9-18~~ or this article.

(d) The license fee for a farm type dry or liquid fertilizer tank trailer or spreader or implement of husbandry used to transport bulk fertilizer between distribution point and farm and return is five dollars (\$5). The trailer, spreader, or implement is exempt from the other fees provided under ~~IC 9-18~~ or this article.

~~(e)~~ (c) The owner of a vehicle listed in this section is not entitled to a reduction in the five dollar (\$5) license fee because the license is granted at a time that the license period is less than a year.

SECTION 62. IC 9-29-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. A farm wagon or farm type dry or liquid fertilizer tank trailer or spreader used to transport bulk fertilizer between distribution point and farm and return is exempt from all license fees when the wagon, trailer, or spreader is drawn or towed on a highway by a:

- (1) farm tractor; or
 - (2) properly registered motor vehicle.
- ~~that is registered as a farm tractor used in transportation.~~

SECTION 63. IC 9-29-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) This section does not apply to a vehicle or person exempt from registration under IC 9-18.

(b) The license fee for a motor vehicle, trailer, or semitrailer and tractor operated primarily as a farm truck, farm trailer, or farm semitrailer and tractor:

- (1) having a declared gross weight of at least eleven thousand (11,000) pounds; and
 - (2) used by the owner or guest occupant in connection with agricultural pursuits usual and normal to the user's farming operation;
- is fifty percent (50%) of the amount listed in this chapter for a truck, trailer, or semitrailer and tractor of the same declared gross weight.

~~(c) A farm truck, farm trailer, or farm semitrailer and tractor described in subsection (b) may not be operated either part time or incidentally in the conduct of a commercial enterprise or for the transportation of farm products after the commodities have entered the channels of commerce.~~

~~(d) A farm truck described in subsection (b) may be used for personal purposes if the vehicle otherwise qualifies for that class of registration.~~

SECTION 64. IC 9-29-5-13.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13.5. (a) This section applies to a truck, trailer, or semitrailer and tractor for which a license fee provided in section 13(b) of this chapter has been paid.

(b) ~~Except as provided in subsection (d),~~ if the owner of a truck, trailer, or semitrailer and tractor described in subsection (a) begins to operate the truck, trailer, or semitrailer and tractor in the conduct of a commercial enterprise or for the transportation of farm products after the commodities have entered the channels of commerce during a registration year for which the license fee under section 13(b) of this chapter has been paid, the owner shall pay the amount listed in this chapter for a truck, trailer, or semitrailer and tractor of the same declared gross weight reduced by a credit determined under subsection (c) to license the truck, trailer, or semitrailer and tractor.

(c) The credit provided in subsection (b) equals:

- (1) the license fee paid under section 13(b) of this chapter; reduced by
- (2) ten percent (10%) for each full or partial calendar month that has elapsed in the registration year for which the license fee has been paid.

~~(d) A The credit determined under subsection (c) may not exceed ninety percent (90%) of the license fee paid under section 13(b) of this chapter.~~

(d) Notwithstanding subsection (b) and IC 9-18-2-4, the owner of a truck, trailer, or semitrailer and tractor described in subsection (a) or an employee or family member of the owner may operate the truck, trailer, or semitrailer and tractor intrastate for the transportation of seasonal, perishable fruit or vegetables to the first point of processing for a period that consists of not more than a thirty (30) day period in a registration year as provided by IC 9-21-21-4. Before a vehicle may be operated as provided in this subsection, the owner shall pay to the bureau:

- (1) any license fee due under section 13(b) of this chapter; and
- (2) eight and one-half percent (8.5%) of the license fee paid under section 13(b) of this chapter.

SECTION 65. IC 9-29-5-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 42. (a) Except as provided in subsection (c), vehicles not subject to IC 9-18-2-8 shall be registered at one-half (½) of the regular rate, subject to IC 9-18-2-7, if the vehicle is registered after July 31 of any year. This

subsection does not apply to the following:

~~(1) A farm tractor used in transportation;~~

~~(2) (1) Special farm machinery.~~

~~(3) (2) Semitrailers registered on a five (5) year or permanent basis under IC 9-18-10-2.~~

~~(3) An implement of agriculture designed to be operated primarily on a highway.~~

(b) Except as provided in subsection (c), subsection (a) and IC 9-18-2-7 determine the registration fee for the registration of a vehicle subject to registration under IC 9-18-2-8(c), IC 9-18-2-8(d), and IC 9-18-2-8(e) and acquired by an owner subsequent to the date required for the annual registration of vehicles by an owner set forth in IC 9-18-2-8.

(c) Subject to subsection (d), a vehicle subject to the International Registration Plan that is registered after September 30 shall be registered at a rate determined by the following formula:

STEP ONE: Determine the number of months before April 1 of the following year beginning with the date of registration. A partial month shall be rounded to one (1) month.

STEP TWO: Multiply the STEP ONE result by one-twelfth (1/12).

STEP THREE: Multiply the annual registration fee for the vehicle by the STEP TWO result.

(d) If the department of state revenue adopts rules under IC 9-18-2-7 to implement staggered registration for motor vehicles subject to the International Registration Plan, a motor vehicle subject to the International Registration Plan that is registered after the date designated for registration of the motor vehicle in rules adopted under ~~IC 9-17-2-7~~ IC 9-18-2-7 shall be registered at a rate determined by the following formula:

STEP ONE: Determine the number of months before the motor vehicle must be re-registered. A partial month shall be rounded to one (1) month.

STEP TWO: Multiply the STEP ONE result by one-twelfth (1/12).

STEP THREE: Multiply the annual registration fee for the vehicle by the STEP TWO result.

SECTION 66. IC 9-29-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The fee for a four (4) year operator's license issued under IC 9-24-3 is six dollars (\$6). **This subsection expires December 31, 2005.**

(b) **After December 31, 2005, the fee for an operator's license issued under IC 9-24-3 or renewed under IC 9-24-12 to an individual who is:**

(1) less than seventy-five (75) years of age is nine dollars (\$9); and

(2) at least seventy-five (75) years of age is six dollars (\$6).

SECTION 67. IC 9-29-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The fee for a chauffeur's license issued under IC 9-24-4 is eight dollars (\$8). **This subsection expires December 31, 2005.**

(b) **After December 31, 2005, the fee for a chauffeur's license issued under IC 9-24-4 or renewed under IC 9-24-12 to an individual who is:**

(1) at least seventy-five (75) years of age is eight dollars (\$8); and

(2) less than seventy-five (75) years of age is twelve dollars (\$12).

SECTION 68. IC 9-29-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The fee for a four (4) year motorcycle operator's license issued under IC 9-24-8 is six dollars (\$6). **This subsection expires December 31, 2005.**

(b) **After December 31, 2005, the fee for a motorcycle operator's license issued under IC 9-24-8 or renewed under IC 9-24-12 to an individual who is:**

(1) at least seventy-five (75) years of age is six dollars (\$6); and

(2) less than seventy-five (75) years of age is nine dollars (\$9).

SECTION 69. IC 9-29-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The fee for a motorcycle operator endorsement of an operator's license is three dollars (\$3). **This subsection expires December 31, 2005.**

(b) After December 31, 2005, the fee for validation of a motorcycle operator endorsement under IC 9-24-8-4 and IC 9-24-12-7(c) of an operator's license issued to an individual who is:

- (1) at least seventy-five (75) years of age is three dollars (\$3); and
- (2) less than seventy-five (75) years of age is four dollars and fifty cents (\$4.50).

SECTION 70. IC 9-29-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The fee for a motorcycle operator endorsement of a chauffeur's license is three dollars (\$3). This subsection expires December 31, 2005.

(b) After December 31, 2005, the fee for validation of a motorcycle operator endorsement under IC 9-24-8-4 and IC 9-24-12-7(c) of a chauffeur's license issued to an individual who is:

- (1) at least seventy-five (75) years of age is three dollars (\$3); and
- (2) less than seventy-five (75) years of age is four dollars and fifty cents (\$4.50).

SECTION 71. IC 9-29-9-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) The fees for the issuance, renewal, or duplication of identification cards under IC 9-24-16 are as follows:

- (1) For a person at least sixty-five (65) years of age or a person with a physical disability and not entitled to obtain a ~~driving~~ driver's license, two dollars (\$2).
- (2) For any other eligible person, four dollars (\$4).

This subsection expires December 31, 2005.

(b) After December 31, 2005, the fees for the issuance, the renewal, or a duplicate of an identification card under IC 9-24-16 are as follows:

- (1) For an individual at least sixty-five (65) years of age or an individual with a physical disability and not entitled to obtain a driver's license, three dollars and fifty cents (\$3.50).
- (2) For any other individual, six dollars (\$6).

SECTION 72. IC 10-11-2-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. (a) The superintendent may assign qualified persons who are not state police officers to supervise or operate permanent or portable weigh stations. A person assigned under this section may stop, inspect, and issue citations to operators of trucks and trailers having a declared gross weight of at least eleven thousand (11,000) pounds and buses at a permanent or portable weigh station or while operating a clearly marked Indiana state police vehicle for violations of the following:

- (1) IC 6-1.1-7-10.
- (2) IC 6-6-1.1-1202.
- (3) IC 6-6-2.5.
- (4) IC 6-6-4.1-12.
- (5) IC 8-2.1.
- (6) IC 9-18.
- (7) IC 9-19.
- (8) IC 9-20.
- (9) IC 9-21-7-2 through IC 9-21-7-11.
- (10) IC 9-21-8-41 pertaining to the duty to obey an official traffic control device for a weigh station.
- (11) IC 9-21-8-45 through IC 9-21-8-48.
- (12) IC 9-21-9.
- (13) IC 9-21-15.
- (14) IC 9-21-21.
- ~~(14)~~ (15) IC 9-24-1-1 through IC 9-24-1-3.
- ~~(15)~~ (16) IC 9-24-1-7.
- ~~(16)~~ (17) Except as provided in subsection (c), IC 9-24-1-6, IC 9-24-6-16, IC 9-24-6-17, and IC 9-24-6-18, commercial driver's license.
- ~~(17)~~ (18) IC 9-24-4.
- ~~(18)~~ (19) IC 9-24-5.
- ~~(19)~~ (20) IC 9-24-11-4.
- ~~(20)~~ (21) IC 9-24-13-3.
- ~~(21)~~ (22) IC 9-24-18-1 through IC 9-24-18-2.
- ~~(22)~~ (23) IC 9-25-4-3.
- ~~(23)~~ (24) IC 9-28-4.

~~(24)~~ (25) IC 9-28-5.

~~(25)~~ (26) IC 9-28-6.

~~(26)~~ (27) IC 9-29-5-11 through IC 9-29-5-13.

~~(27)~~ (28) IC 9-29-5-42.

~~(28)~~ (29) IC 9-29-6-1.

~~(29)~~ (30) IC 13-17-5-1, IC 13-17-5-2, IC 13-17-5-3, or IC 13-17-5-4.

~~(30)~~ (31) IC 13-30-2-1.

(b) For the purpose of enforcing this section, a person assigned under this section may detain a person in the same manner as a law enforcement officer under IC 34-28-5-3.

(c) A person assigned under this section may not enforce IC 9-24-6-14 or IC 9-24-6-15.

SECTION 73. IC 13-11-2-245 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 245. (a) "Vehicle", for purposes of IC 13-17-5, refers to a vehicle required to be registered with the bureau of motor vehicles and required to have brakes. The term does not include the following:

~~(1) Farm tractors.~~

~~(2) Implements of husbandry.~~

~~(3) Farm tractors used in transportation.~~

~~(4)~~ (1) Mobile homes (house trailers).

~~(5)~~ (2) Trailers weighing not more than three thousand (3,000) pounds.

~~(6)~~ (3) Antique motor vehicles.

(4) Special machinery (as defined in IC 9-13-2-170.3).

(b) "Vehicle", for purposes of IC 13-18-12, means a device used to transport a tank.

(c) "Vehicle", for purposes of IC 13-20-4, refers to a municipal waste collection and transportation vehicle.

(d) "Vehicle", for purposes of IC 13-20-13-7, means a motor vehicle and types of equipment, machinery, implements, or other devices used in transportation, manufacturing, agriculture, construction, or mining. The term does not include the following:

(1) A lawn and garden tractor that is propelled by a motor of not more than ~~twenty (20)~~ twenty-five (25) horsepower.

(2) A semitrailer.

(e) "Vehicle", for purposes of IC 13-20-14, has the meaning set forth in IC 9-13-2-196.

SECTION 74. IC 26-1-9.1-311 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 311. (a) Except as otherwise provided in subsection (d), the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(1) a statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt IC 26-1-9.1-310(a);

(2) any Indiana certificate-of-title statute covering automobiles, trailers, mobile homes, or boats, ~~farm tractors or the like~~, which provides for a security interest to be indicated on the certificate as a condition or result of perfection; or

(3) a certificate-of-title statute of another jurisdiction which provides for a security interest to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(b) Compliance with the requirements of a statute, regulation, or treaty described in subsection (a) for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under IC 26-1-9.1. Except as otherwise provided in subsection (d), IC 26-1-9.1-313, IC 26-1-9.1-316(d), and IC 26-1-9.1-316(e) for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (a) may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(c) Except as otherwise provided in subsection (d), IC 26-1-9.1-316(d), and IC 26-1-9.1-316(e), duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (a) are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to IC 26-1-9.1.

(d) During any period in which collateral, subject to a statute specified in subsection (a)(2), is inventory held for sale or lease by a person or leased by that person as lessor, and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person, but instead, the filing provisions of IC 26-1-9.1-501 through IC 26-1-9.1-527 apply.

SECTION 75. IC 34-30-2-30.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 30.5. IC 9-24-10-7.5 (Concerning physicians, optometrists, or advanced practice nurses making reports concerning driver impairment).

SECTION 76. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 6-6-2.5-11; IC 9-13-2-55; IC 9-13-2-57; IC 9-13-2-169; IC 9-29-5-19; IC 9-29-13-1.

SECTION 77. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 9-13-2-77, as amended by this act, the bureau of motor vehicles shall carry out the duties imposed on it under IC 9-13-2-77, as amended by this act, under interim written guidelines approved by the commissioner of motor vehicles.

(b) This SECTION expires on the earlier of the following:

- (1) The date rules are adopted under IC 9-13-2-77, as amended by this act.
- (2) December 31, 2006.

SECTION 78. [EFFECTIVE UPON PASSAGE] (a) The bureau of motor vehicles shall adopt rules under IC 4-22-2 to identify and define "farm truck", "farm trailer", and "farm semitrailer and tractor", as required by IC 9-13-2-58.

(b) Notwithstanding subsection (a), the bureau of motor vehicles shall carry out the duties imposed on it by IC 9-13-2-58 and by this SECTION under interim written guidelines approved by the commissioner of motor vehicles.

(c) This SECTION expires on the earlier of the following:

- (1) The date rules are adopted under IC 9-13-2-58.
- (2) December 31, 2006.

SECTION 79. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "common carrier" has the meaning set forth in IC 8-2.1-17-4.

(b) As used in this SECTION, "contract carrier" has the meaning set forth in IC 8-2.1-17-5.

(c) As used in this SECTION, "person" includes an employee or a family member of a farmer.

(d) Notwithstanding IC 9-24-6-2(c), the bureau of motor vehicles shall adopt rules under IC 4-22-2 to exempt a person who operates a farm vehicle:

- (1) that is controlled by a farmer;
- (2) that is used to transport:
 - (A) agricultural products;
 - (B) farm machinery; or
 - (C) farm supplies;

to or from a farm;

- (3) that is not used in the operations of a common or contract carrier; and
- (4) that is used within one hundred fifty (150) miles of the farmer's farm;

from regulation as a person required to hold a commercial driver's license in order to operate a farm vehicle.

(e) The bureau of motor vehicles shall carry out the duties imposed on it by IC 9-24-6-2(c) and by this SECTION under interim written guidelines approved by the commissioner of motor vehicles.

(f) This SECTION expires on the earlier of the following:

- (1) The date rules are adopted under IC 9-24-6-2(c).
- (2) December 31, 2006.

SECTION 80. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 9-21-21-4, as added by this act, the bureau of motor vehicles shall carry out the duties imposed on it under IC 9-21-21-4, as added by this act, under interim written guidelines approved by the commissioner of the bureau of motor vehicles.

(b) This SECTION expires the earlier of the following:

- (1) The date rules are adopted under IC 9-21-21-4.
- (2) December 31, 2006.

SECTION 81. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 9-29-2-2, as amended by this act, the fee charged before January 1, 2006, for a record of a vehicle title that is requested electronically through the computer gateway administered by the intelnet commission under IC 5-21 is four dollars (\$4). The intelnet commission may also charge a service fee.

(b) This SECTION expires January 1, 2006.

SECTION 82. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 9-29-3-8, IC 9-29-3-9, IC 9-29-3-10, and IC 9-29-3-14, all as amended by this act, and in accordance with IC 9-29-3-19(d)(2), the bureau of motor vehicles shall adopt rules under IC 4-22-2 to increase the service charges in effect on July 1, 2005, under 140 IAC 8-3-9, 140 IAC 8-3-18, and 140 IAC 8-3-20 concerning service charges for an operator's license, a motorcycle license, a chauffeur's license, or a motorcycle endorsement of an operator's or a chauffeur's license for an individual who is less than seventy-five (75) years of age at the time of the issuance or renewal of the license or endorsement. The rules must:

- (1) provide that the applicable service charge is increased by fifty percent (50%) over the charge in effect on July 1, 2005; and
- (2) be effective January 1, 2006.

(b) Before the effective date of the rules adopted under subsection (a), the bureau of motor vehicles shall carry out the duties imposed on it under this SECTION under interim written guidelines approved by the commissioner of the bureau of motor vehicles. Interim guidelines approved under this subsection expire on the earlier of:

- (1) the effective date of the rules adopted under subsection (a); or
- (2) January 1, 2007.

(c) This SECTION expires on the earlier of the following:

- (1) The date rules are adopted in accordance with this SECTION.
- (2) January 1, 2007.

SECTION 83. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 9-29-9-2, IC 9-29-9-4, IC 9-29-9-6, IC 9-29-9-7, and IC 9-29-9-8, all as amended by this act, and in accordance with IC 9-29-1-2(b), the bureau of motor vehicles shall adopt rules under IC 4-22-2 to increase the license fee and motorcycle endorsement fee in effect on July 1, 2005, under 140 IAC 8-4-25 and 140 IAC 8-4-26 concerning license fee increases and motorcycle endorsement fee increases for certain operator's licenses, motorcycle licenses, or chauffeur's licenses or a motorcycle endorsement of an operator's or a chauffeur's license for an individual who is less than seventy-five (75) years of age at the time of the issuance of or renewal of the license or endorsement. The rules must:

- (1) provide that the applicable license fee or motorcycle endorsement fee increase is increased by fifty percent (50%) over the charge in effect on July 1, 2005; and
- (2) be effective January 1, 2006.

(b) Before the effective date of the rules adopted under subsection (a), the bureau of motor vehicles shall carry out the duties imposed on it under this SECTION under interim written guidelines approved by the commissioner of the bureau of motor vehicles. Interim guidelines approved under this subsection expire on the earlier of:

- (1) the effective date of the rules adopted under subsection (a); or
- (2) January 1, 2007.

(c) This SECTION expires on the earlier of the following:

- (1) The date rules are adopted in accordance with this SECTION.
- (2) January 1, 2007.

SECTION 84. An emergency is declared for this act.

(Reference is to EHB 1073 as reprinted March 29, 2005.)

LEHE	RIEGSECKER
TINCHER	BRODEN
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 496-1; filed April 29, 2005, at 2:20 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 496 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-33-4-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 23. (a)** An operating agent or a person holding an owner's license must report annually to the commission the following:

(1) The total dollar amounts and recipients of incentive payments made.

(2) Any other items related to the payments described in subdivision (1) that the commission may require.

(b) The commission shall prescribe, with respect to the report required by subsection (a):

(1) the format of the report;

(2) the deadline by which the report must be filed; and

(3) the manner in which the report must be maintained and filed.

SECTION 2. IC 5-1-18 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 18. Reports Concerning Bonds and Leases of Political Subdivisions

Sec. 1. As used in this chapter, "bonds" means any bonds, notes, or other evidences of indebtedness, including guaranteed energy savings contracts and advances from the common school fund, whether payable from property taxes, other taxes, revenues, or any other source. However, the term does not include notes, warrants, or other evidences of indebtedness made in anticipation of and to be paid from current revenues of a political subdivision actually levied and in the course of collection for the fiscal year in which the notes, warrants, or other evidences of indebtedness are issued.

Sec. 2. As used in this chapter, "department" refers to the department of local government finance.

Sec. 3. As used in this chapter, "lease" means a lease of real property that is entered into by a political subdivision for a term of at least twelve (12) months, whether payable from property taxes, other taxes, revenues, or any other source.

Sec. 4. As used in this chapter, "lease rentals" means the payments required under a lease.

Sec. 5. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

Sec. 6. A political subdivision that issues bonds or enters into a lease after December 31, 2005, shall supply the department with information concerning the bond issue or lease within twenty (20) days after the issuance of the bonds or execution of the lease.

Sec. 7. (a) Except as provided by subsection (b), the bond issue information required by section 6 of this chapter must be submitted on a form prescribed by the department and must include:

(1) the par value of the bond issue;

(2) a schedule of maturities and interest rates;

(3) the purposes of the bond issue;

(4) the itemized costs of issuance information, including fees for bond counsel, other legal counsel, underwriters, and financial advisors;

(5) the type of bonds that are issued; and

(6) other information as required by the department.

A copy of the official statement and bond covenants, if any, must be supplied with this information.

(b) The department may establish a procedure that permits a political subdivision or a person acting on behalf of a political subdivision to transfer all or part of the information described in subsection (a) to the department in a uniform format through a

secure connection over the Internet or through other electronic means.

Sec. 8. (a) Except as provided by subsection (b), the lease information required by section 6 of this chapter must be submitted on a form prescribed by the department and must include:

(1) the term of the lease;

(2) the annual and total amount of lease rental payments due under the lease;

(3) the purposes of the lease;

(4) the itemized costs incurred by the political subdivision with respect to the preparation and execution of the lease, including fees for legal counsel and other professional advisors;

(5) if all or part of the lease rental payments are used by the lessor as debt service payments for bonds issued for the acquisition, construction, renovation, improvement, expansion, or use of a building, structure, or other public improvement for the political subdivision:

(A) the name of the lessor;

(B) the par value of the bond issue; and

(C) the purposes of the bond issue; and

(6) other information as required by the department.

(b) The department may establish a procedure that permits a political subdivision or a person acting on behalf of a political subdivision to transfer all or part of the information described in subsection (a) to the department in a uniform format through the Internet or other electronic means, as determined by the department.

Sec. 9. Each political subdivision that has any outstanding bonds or leases shall submit a report to the department before March 1 of 2006 and each year thereafter that includes a summary of all the outstanding bonds of the political subdivision as of January 1 of that year. The report must:

(1) distinguish the outstanding bond issues and leases on the basis of the type of bond or lease, as determined by the department;

(2) include a comparison of the political subdivision's outstanding indebtedness compared to any applicable statutory or constitutional limitations on indebtedness;

(3) include other information as required by the department; and

(4) be submitted on a form prescribed by the department or through the Internet or other electronic means, as determined by the department.

Sec. 10. The department shall:

(1) compile an electronic data base that includes the information submitted under this chapter; and

(2) after December 31, 2006, post the information submitted under this chapter on the Internet at least annually.

Sec. 11. Information submitted to the department under this chapter is a public record that may be inspected and copied under IC 5-14-3.

Sec. 12. The department may adopt rules under IC 4-22-2 to carry out the purposes of this chapter.

SECTION 3. IC 6-1.1-4-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 39. (a)** For assessment dates after February 28, 2005, except as provided in ~~subsection~~ subsections (c) and (e), the true tax value of real property regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more and that has more than four (4) rental units is the lowest valuation determined by applying each of the following appraisal approaches:

(1) Cost approach that includes an estimated reproduction or replacement cost of buildings and land improvements as of the date of valuation together with estimates of the losses in value that have taken place due to wear and tear, design and plan, or neighborhood influences.

(2) Sales comparison approach, using data for generally comparable property.

(3) Income capitalization approach, using an applicable capitalization method and appropriate capitalization rates that are developed and used in computations that lead to an indication of value commensurate with the risks for the subject

property use.

(b) The gross rent multiplier method is the preferred method of valuing:

- (1) real property that has at least one (1) and not more than four (4) rental units; and
- (2) mobile homes assessed under IC 6-1.1-7.

(c) A township assessor is not required to appraise real property referred to in subsection (a) using the three (3) appraisal approaches listed in subsection (a) if the township assessor and the taxpayer agree before notice of the assessment is given to the taxpayer under section 22 of this chapter to the determination of the true tax value of the property by the assessor using one (1) of those appraisal approaches.

(d) To carry out this section, the department of local government finance may adopt rules for assessors to use in gathering and processing information for the application of the income capitalization method and the gross rent multiplier method. A taxpayer must verify under penalties for perjury any information provided to the assessor for use in the application of either method.

(e) The true tax value of low income rental property (as defined in section 41 of this chapter) is not determined under subsection (a). The assessment method prescribed in section 41 of this chapter is the exclusive method for assessment of that property. This subsection does not impede any rights to appeal an assessment.

SECTION 4. IC 6-1.1-4-41 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 41. (a) For purposes of this section:**

(1) "low income rental property" means real property used to provide low income housing eligible for federal income tax credits awarded under Section 42 of the Internal Revenue Code; and

(2) "rental period" means the period during which low income rental property is eligible for federal income tax credits awarded under Section 42 of the Internal Revenue Code.

(b) For assessment dates after February 28, 2006, except as provided in subsection (c), the true tax value of low income rental property is the greater of the true tax value:

- (1) determined using the income capitalization approach; or**
- (2) that results in a gross annual tax liability equal to five percent (5%) of the total gross rent received from the rental of all units in the property for the most recent taxpayer fiscal year that ends before the assessment date.**

(c) The department of local government finance may adopt rules under IC 4-22-2 to implement this section.

SECTION 5. IC 6-1.1-12-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 30, 2004 (RETROACTIVE)]: **Sec. 41. (a) This section does not apply to assessment years beginning after December 31, 2005.**

(b) As used in this section, "assessed value of inventory" means the assessed value determined after the application of any deductions or adjustments that apply by statute or rule to the assessment of inventory, other than the deduction allowed under subsection (f).

(c) As used in this section, "county income tax council" means a council established by IC 6-3.5-6-2.

(d) As used in this section, "fiscal body" has the meaning set forth in IC 36-1-2-6.

(e) As used in this section, "inventory" has the meaning set forth in IC 6-1.1-3-11.

(f) An ordinance may be adopted in a county to provide that a deduction applies to the assessed value of inventory located in the county. The deduction is equal to one hundred percent (100%) of the assessed value of inventory located in the county for the appropriate year of assessment. ~~An ordinance adopted under this subsection must be adopted before January 1 of a calendar year beginning after December 31, 2002.~~ An ordinance adopted under this section in a particular year applies:

- (1) if adopted before March 31, 2004, to each subsequent assessment year ending before January 1, 2006; and**
- (2) if adopted after March 30, 2004, and before June 1, 2005, to the March 1, 2005, assessment date.**

An ordinance adopted under this section may be consolidated with an

ordinance adopted under IC 6-3.5-7-25 or IC 6-3.5-7-26. The consolidation of an ordinance adopted under this section with an ordinance adopted under IC 6-3.5-7-26 does not cause the ordinance adopted under IC 6-3.5-7-26 to expire after December 31, 2005.

(g) An ordinance may not be adopted under subsection (f) after ~~March May 30, 2004~~ **2005**. However, an ordinance adopted under this section:

(1) before March 31, 2004, may be amended after March 30, 2004; and

(2) before June 1, 2005, may be amended after May 30, 2005;

to consolidate an ordinance adopted under IC 6-3.5-7-26.

(h) The entity that may adopt the ordinance permitted under subsection (f) is:

(1) the county income tax council if the county option income tax is in effect on January 1 of the year in which an ordinance under this section is adopted;

(2) the county fiscal body if the county adjusted gross income tax is in effect on January 1 of the year in which an ordinance under this section is adopted; or

(3) the county income tax council or the county fiscal body, whichever acts first, for a county not covered by subdivision (1) or (2).

To adopt an ordinance under subsection (f), a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax. The entity that adopts the ordinance shall provide a certified copy of the ordinance to the department of local government finance before February 1.

(i) A taxpayer is not required to file an application to qualify for the deduction permitted under subsection (f).

(j) The department of local government finance shall incorporate the deduction established in this section in the personal property return form to be used each year for filing under IC 6-1.1-3-7 or IC 6-1.1-3-7.5 to permit the taxpayer to enter the deduction on the form. If a taxpayer fails to enter the deduction on the form, the township assessor shall:

(1) determine the amount of the deduction; and

(2) within the period established in IC 6-1.1-16-1, issue a notice of assessment to the taxpayer that reflects the application of the deduction to the inventory assessment.

(k) The deduction established in this section must be applied to any inventory assessment made by:

(1) an assessing official;

(2) a county property tax board of appeals; or

(3) the department of local government finance.

SECTION 6. IC 6-1.1-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1. (a) A taxpayer may obtain a review by the county property tax assessment board of appeals of a county or township official's action with respect to the assessment of the taxpayer's tangible property if the official's action requires the giving of notice to the taxpayer. At the time that notice is given to the taxpayer, the taxpayer shall also be informed in writing of:**

(1) the opportunity for review under this section, including an informal preliminary conference with the county or township official referred to in this subsection; and

(2) the procedures the taxpayer must follow in order to obtain review under this section.

(b) In order to appeal a current assessment and have a change in the assessment effective for the most recent assessment date, the taxpayer must request in writing a preliminary conference with the county or township official referred to in subsection (a):

(1) within not later than forty-five (45) days after notice of a change in the assessment is given to the taxpayer; or

(2) on or before May 10 of that year;

whichever is later. ~~The county or township official referred to in subsection (a) shall notify the county auditor that the assessment is under appeal.~~ The preliminary conference required under this subsection is a prerequisite to a review by the county property tax assessment board of appeals under subsection (i).

(c) A change in an assessment made as a result of an appeal filed:

(1) in the same year that notice of a change in the assessment is given to the taxpayer; and

(2) after the time prescribed in subsection (b); becomes effective for the next assessment date.

(d) A taxpayer may appeal a current real property assessment in a year even if the taxpayer has not received a notice of assessment in the year. If an appeal is filed on or before May 10 of a year in which the taxpayer has not received notice of assessment, a change in the assessment resulting from the appeal is effective for the most recent assessment date. If the appeal is filed after May 10, the change becomes effective for the next assessment date.

(e) The written request for a preliminary conference that is required under subsection (b) must include the following information:

- (1) The name of the taxpayer.
- (2) The address and parcel or key number of the property.
- (3) The address and telephone number of the taxpayer.

(f) The county or township official referred to in subsection (a) shall, **within not later than** thirty (30) days after the receipt of a written request for a preliminary conference, attempt to hold a preliminary conference with the taxpayer to resolve as many issues as possible by:

- (1) discussing the specifics of the taxpayer's reassessment;
- (2) reviewing the taxpayer's property record card;
- (3) explaining to the taxpayer how the reassessment was determined;
- (4) providing to the taxpayer information about the statutes, rules, and guidelines that govern the determination of the reassessment;
- (5) noting and considering objections of the taxpayer;
- (6) considering all errors alleged by the taxpayer; and
- (7) otherwise educating the taxpayer about:
 - (A) the taxpayer's reassessment;
 - (B) the reassessment process; and
 - (C) the reassessment appeal process.

Within Not later than ten (10) days after the conference, the county or township official referred to in subsection (a) shall forward to the county auditor and the county property tax assessment board of appeals the results of the conference on a form prescribed by the department of local government finance that must be completed and signed by the taxpayer and the official. The official and the taxpayer shall each retain a copy of the form for their records.

(g) The form submitted to the county property tax assessment board of appeals under subsection (f) must specify the following:

- (1) The physical characteristics of the property in issue that bear on the assessment determination.
- (2) All other facts relevant to the assessment determination.
- (3) A list of the reasons the taxpayer believes that the assessment determination by the county or township official referred to in subsection (a) is incorrect.
- (4) An indication of the agreement or disagreement by the official with each item listed under subdivision (3).
- (5) The reasons the official believes that the assessment determination is correct.

(h) If after the conference there are no items listed on the form submitted to the county property tax assessment board of appeals under subsection (f) on which there is disagreement:

- (1) the county or township official referred to in subsection (a) shall give notice to the taxpayer, the county property tax assessment board of appeals, and the county assessor of the assessment in the amount agreed to by the taxpayer and the official; and
- (2) the county property tax assessment board of appeals may reserve the right to change the assessment under IC 6-1.1-13.

(i) If after the conference there are items listed in the form submitted under subsection (f) on which there is disagreement, the county property tax assessment board of appeals shall hold a hearing. The taxpayer and county or township official whose original determination is under review are parties to the proceeding before the board of appeals. Except as provided in subsections (k) and (l), the hearing must be held **within not later than** ninety (90) days ~~of~~ after the official's receipt of the taxpayer's written request for a preliminary conference under subsection (b). The taxpayer may present the taxpayer's reasons for disagreement with the assessment. The county or township official referred to in subsection (a) must present the basis for the assessment decision on these items to the board of

appeals at the hearing and the reasons the taxpayer's appeal should be denied on those items. The board of appeals shall have a written record of the hearing and prepare a written statement of findings and a decision on each item **within not later than** sixty (60) days ~~of~~ after the hearing, except as provided in subsections (k) and (l).

(j) If the township assessor does not attempt to hold a preliminary conference, the taxpayer may file a request in writing with the county assessor for a hearing before the property tax assessment board of appeals. If the board determines that the county or township official referred to in subsection (a) did not attempt to hold a preliminary conference, the board shall hold a hearing. The taxpayer and the county or township official whose original determination is under review are parties to the proceeding before the board of appeals. The hearing must be held **within not later than** ninety (90) days ~~of~~ after the receipt by the board of appeals of the taxpayer's hearing request under this subsection. The requirements of subsection (i) with respect to:

- (1) participation in the hearing by the taxpayer and the township assessor or county assessor; and
- (2) the procedures to be followed by the county board; apply to a hearing held under this subsection.

(k) This subsection applies to a county having a population of more than three hundred thousand (300,000). In the case of a petition filed after December 31, 2000, the county property tax assessment board of appeals shall:

- (1) hold its hearing **within not later than** one hundred eighty (180) days instead of ninety (90) days **after the filing of the petition**; and
- (2) have a written record of the hearing and prepare a written statement of findings and a decision on each item **within not later than** one hundred twenty (120) days after the hearing.

(l) This subsection applies to a county having a population of three hundred thousand (300,000) or less. With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the county property tax assessment board of appeals shall:

- (1) hold its hearing **within not later than** one hundred eighty (180) days instead of ninety (90) days **after the filing of the petition**; and
- (2) have a written record of the hearing and prepare a written statement of findings and a decision on each item **within not later than** one hundred twenty (120) days after the hearing.

(m) The county property tax assessment board of appeals:

- (1) may not require a taxpayer to file documentary evidence or summaries of statements of testimonial evidence before the hearing required under subsection (i) or (j); and
- (2) may amend the form submitted under subsection (f) if the board determines that the amendment is warranted.

(n) Upon receiving a request for a preliminary conference under subsection (b), the county or township official referred to in subsection (a) shall notify the county auditor in writing that the assessment is under appeal. With respect to an appeal of the assessment of real property or personal property filed after June 30, 2005, the notice must include the appellant's name and address, the assessed value of the appealed items for the assessment date immediately preceding the assessment date for which the appeal was filed, and the assessed value of the appealed items on the most recent assessment date. If the county auditor determines that the assessed value of the appealed items constitutes at least one percent (1%) of the total gross certified assessed value of a particular taxing unit for the assessment date immediately preceding the assessment date for which the appeal was filed, the county auditor shall send a copy of the notice to the affected taxing unit. Failure of the county auditor to send a copy of the notice to the affected taxing unit does not affect the validity of the appeal or delay the appeal.

SECTION 7. IC 6-1.1-15-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.1. (a) The county property tax assessment board of appeals may assess the tangible property in question.

(b) The county property tax assessment board of appeals shall, by mail, give notice of the date fixed for the hearing under ~~section 7~~

section 1(i) of this chapter to the taxpayer, ~~and to the township assessor, the county assessor, and the county auditor.~~ **With respect to an appeal of the assessment of real property or personal property filed after June 30, 2005, the notice must include the following:**

(1) For those items on which there is disagreement, the assessed value of the appealed items:

- (A) for the assessment date immediately preceding the assessment date for which the appeal was filed; and**
- (B) on the most recent assessment date.**

(2) A statement that a taxing unit receiving the notice from the county auditor under subsection (c) may:

- (A) attend the hearing;**
- (B) offer testimony; and**
- (C) file an amicus curiae brief in the proceeding.**

A taxing unit that receives a notice from the county auditor under subsection (c) is not a party to the appeal.

(c) If, after receiving notice of a hearing under subsection (b), the county auditor determines that the assessed value of the items on which there is disagreement constitutes at least one percent (1%) of the total gross certified assessed value of a particular taxing unit for the assessment date immediately preceding the assessment date for which the appeal was filed, the county auditor shall send a copy of the notice to the affected taxing unit. Failure of the county auditor to send a copy of the notice to the affected taxing unit does not affect the validity of the appeal or delay the appeal.

~~(c)~~ **(d)** The department of local government finance shall prescribe a form for use by the county property tax assessment board of appeals in processing a review of an assessment determination. The department shall issue instructions for completion of the form. The form must require the county property tax assessment board of appeals to include a record of the hearing, findings on each item, and indicate agreement or disagreement with each item that is indicated on the form submitted by the taxpayer and the county or township official under section 1(f) of this chapter. The form must also require the county property tax assessment board of appeals to indicate the issues in dispute for each item and its reasons in support of its resolution of those issues.

~~(d)~~ **(e)** After the hearing the county property tax assessment board of appeals shall, by mail, give notice of its determination to the taxpayer, the township assessor, ~~and the county assessor, and the county auditor, and any taxing unit entitled to notice of the hearing under subsection (c).~~ **The county property tax assessment board of appeals shall include with the notice copies of the forms completed under subsection ~~(c)~~ (d).**

SECTION 8. IC 6-1.1-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) A taxpayer may obtain a review by the Indiana board of a county property tax assessment board of appeals action with respect to the assessment of that taxpayer's tangible property if the county property tax assessment board of appeals' action requires the giving of notice to the taxpayer. A township assessor, county assessor, member of a county property tax assessment board of appeals, or county property tax assessment board of appeals that made the original determination under appeal under this section is a party to the review under this section to defend the determination. At the time that notice is given to the taxpayer, the taxpayer shall also be informed in writing of:

- (1) the taxpayer's opportunity for review under this section; and**
- (2) the procedures the taxpayer must follow in order to obtain review under this section.**

(b) A township assessor or county assessor may obtain a review by the Indiana board of any assessment which the township assessor or the county assessor has made, upon which the township assessor or the county assessor has passed, or which has been made over the township assessor's or the county assessor's protest.

(c) In order to obtain a review by the Indiana board under this section, the party must file a petition for review with the appropriate county assessor ~~within not later than~~ **thirty (30) days** after the notice of the county property tax assessment board of appeals action is given to the taxpayer.

(d) The Indiana board shall prescribe the form of the petition for review of an assessment determination by the county property tax

assessment board of appeals. The Indiana board shall issue instructions for completion of the form. The form and the instructions must be clear, simple, and understandable to the average individual. An appeal of such a determination must be made on the form prescribed by the Indiana board. The form must require the petitioner to specify the following:

(1) If the county or township official held a preliminary conference under section 1(f) of this chapter, the items listed in section 1(g)(1) and 1(g)(2) of this chapter.

(2) The reasons why the petitioner believes that the assessment determination by the county property tax assessment board of appeals is erroneous.

(e) The county assessor shall transmit the petition for review to the Indiana board ~~within not later than~~ **ten (10) days** after it is filed.

(f) If a township assessor or a member of the county property tax assessment board of appeals files a petition for review under this section concerning the assessment of a taxpayer's property, the county assessor must send a copy of the petition to the taxpayer. **The county assessor shall transmit the petition for review to the Indiana board not later than ten (10) days after the petition is filed.**

SECTION 9. IC 6-1.1-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) After receiving a petition for review which is filed under section 3 of this chapter, the Indiana board shall conduct a hearing at its earliest opportunity. The Indiana board may:

- (1) assign:**
 - (A) full;**
 - (B) limited; or**
 - (C) no;**

evidentiary value to the assessed valuation of tangible property determined by stipulation submitted as evidence of a comparable sale; and

(2) correct any errors that may have been made, and adjust the assessment in accordance with the correction.

(b) If the Indiana board conducts a site inspection of the property as part of its review of the petition, the Indiana board shall give notice to all parties of the date and time of the site inspection. The Indiana board is not required to assess the property in question. The Indiana board shall give notice of the date fixed for the hearing, by mail, to the taxpayer and to the appropriate township assessor, county assessor, and county auditor. **With respect to an appeal of the assessment of real property or personal property filed after June 30, 2005, the notice must include the following:**

(1) The action of the county property tax assessment board of appeals with respect to the appealed items.

(2) A statement that a taxing unit receiving the notice from the county auditor under subsection (c) may:

- (A) attend the hearing; and**
- (B) offer testimony.**

A taxing unit that receives a notice from the county auditor under subsection (c) is not a party to the appeal. The Indiana board shall give these notices at least thirty (30) days before the day fixed for the hearing. The property tax assessment board of appeals that made the determination under appeal under this section may, with the approval of the county executive, file an amicus curiae brief in the review proceeding under this section. The expenses incurred by the property tax assessment board of appeals in filing the amicus curiae brief shall be paid from the property reassessment fund under IC 6-1.1-4-27.5. The executive of a taxing unit may file an amicus curiae brief in the review proceeding under this section if the property whose assessment is under appeal is subject to assessment by that taxing unit.

(c) If, after receiving notice of a hearing under subsection (b), the county auditor determines that the assessed value of the appealed items constitutes at least one percent (1%) of the total gross certified assessed value of a particular taxing unit for the assessment date immediately preceding the assessment date for which the appeal was filed, the county auditor shall send a copy of the notice to the affected taxing unit. Failure of the county auditor to send a copy of the notice to the affected taxing unit does not affect the validity of the appeal or delay the appeal.

~~(d)~~ **(d)** If a petition for review does not comply with the Indiana board's instructions for completing the form prescribed under section

3 of this chapter, the Indiana board shall return the petition to the petitioner and include a notice describing the defect in the petition. The petitioner then has thirty (30) days from the date on the notice to cure the defect and file a corrected petition. The Indiana board shall deny a corrected petition for review if it does not substantially comply with the Indiana board's instructions for completing the form prescribed under section 3 of this chapter.

~~(c)~~ **(e)** The Indiana board shall prescribe a form for use in processing petitions for review of actions by the county property tax assessment board of appeals. The Indiana board shall issue instructions for completion of the form. The form must require the Indiana board to indicate agreement or disagreement with each item that is:

(1) if the county or township official held a preliminary conference under section 1(f) of this chapter, indicated on the petition submitted under that section by the taxpayer and the official; and

(2) included in the county property tax assessment board of appeals' findings, record, and determination under ~~section 2.1(c)~~ **section 2.1(d)** of this chapter.

The form must also require the Indiana board to indicate the issues in dispute and its reasons in support of its resolution of those issues.

~~(d)~~ **(f)** After the hearing the Indiana board shall give the petitioner, the township assessor, the county assessor, ~~and~~ the county auditor, **and the affected taxing units required to be notified under subsection (c):**

(1) notice, by mail, of its final determination;

(2) a copy of the form completed under subsection ~~(c)~~ **(e)**; and

(3) notice of the procedures they must follow in order to obtain court review under section 5 of this chapter.

~~(e)~~ **(g)** Except as provided in subsection ~~(f)~~ **(h)**, the Indiana board shall conduct a hearing not later than nine (9) months after a petition in proper form is filed with the Indiana board, excluding any time due to a delay reasonably caused by the petitioner.

~~(f)~~ **(h)** With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the Indiana board shall conduct a hearing not later than one (1) year after a petition in proper form is filed with the Indiana board, excluding any time due to a delay reasonably caused by the petitioner.

~~(g)~~ **(i)** Except as provided in subsection ~~(h)~~ **(j)**, the Indiana board shall make a determination not later than the later of:

(1) ninety (90) days after the hearing; or

(2) the date set in an extension order issued by the Indiana board.

~~(h)~~ **(j)** With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the Indiana board shall make a determination not later than the later of:

(1) one hundred eighty (180) days after the hearing; or

(2) the date set in an extension order issued by the Indiana board.

~~(i)~~ **(k)** Except as provided in subsection ~~(j)~~ **(p)**, the Indiana board may not extend the final determination date under subsection ~~(g)~~ **(i)** or ~~(h)~~ **(j)** by more than one hundred eighty (180) days. If the Indiana board fails to make a final determination within the time allowed by this subsection, the entity that initiated the petition may:

(1) take no action and wait for the Indiana board to make a final determination; or

(2) petition for judicial review under section 5(g) of this chapter.

~~(j)~~ **(l)** A final determination must include separately stated findings of fact for all aspects of the determination. Findings of ultimate fact must be accompanied by a concise statement of the underlying basic facts of record to support the findings. Findings must be based exclusively upon the evidence on the record in the proceeding and on matters officially noticed in the proceeding. Findings must be based upon a preponderance of the evidence.

~~(k)~~ **(m)** The Indiana board may limit the scope of the appeal to the issues raised in the petition and the evaluation of the evidence presented to the county property tax assessment board of appeals in support of those issues only if all persons participating in the hearing required under subsection (a) agree to the limitation. A person

participating in the hearing required under subsection (a) is entitled to introduce evidence that is otherwise proper and admissible without regard to whether that evidence has previously been introduced at a hearing before the county property tax assessment board of appeals.

~~(l)~~ **(n)** The Indiana board:

(1) may require the parties to the appeal to file not more than five (5) business days before the date of the hearing required under subsection (a) documentary evidence or summaries of statements of testimonial evidence; and

(2) may require the parties to the appeal to file not more than fifteen (15) business days before the date of the hearing required under subsection (a) lists of witnesses and exhibits to be introduced at the hearing.

~~(m)~~ **(o)** A party to a proceeding before the Indiana board shall provide to another party to the proceeding the information described in subsection ~~(l)~~ **(n)** if the other party requests the information in writing at least ten (10) days before the deadline for filing of the information under subsection ~~(l)~~ **(n)**.

~~(n)~~ **(p)** The county assessor may:

(1) appear as an additional party if the notice of appearance is filed before the review proceeding; or

(2) with the approval of the township assessor, represent the township assessor;

in a review proceeding under this section.

~~(o)~~ **(q)** The Indiana board may base its final determination on a stipulation between the respondent and the petitioner. If the final determination is based on a stipulated assessed valuation of tangible property, the Indiana board may order the placement of a notation on the permanent assessment record of the tangible property that the assessed valuation was determined by stipulation. The Indiana board may:

(1) order that a final determination under this subsection has no precedential value; or

(2) specify a limited precedential value of a final determination under this subsection.

SECTION 10. IC 6-1.1-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Not later than fifteen (15) days after the Indiana board gives notice of its final determination under section 4 of this chapter to the party or the maximum allowable time for the issuance of a final determination by the Indiana board under section 4 of this chapter expires, a party to the proceeding may request a rehearing before the Indiana board. The Indiana board may conduct a rehearing and affirm or modify its final determination, giving the same notices after the rehearing as are required by section 4 of this chapter. The Indiana board has fifteen (15) days after receiving a petition for a rehearing to determine whether to grant a rehearing. Failure to grant a rehearing not later than fifteen (15) days after receiving the petition shall be treated as a final determination to deny the petition. A petition for a rehearing does not toll the time in which to file a petition for judicial review unless the petition for rehearing is granted. If the Indiana board determines to rehear a final determination, the Indiana board:

(1) may conduct the additional hearings that the Indiana board determines necessary or review the written record without additional hearings; and

(2) shall issue a final determination not later than ninety (90) days after notifying the parties that the Indiana board will rehear the final determination.

If ~~of~~ the Indiana board fails to make a final determination within the time allowed under subdivision (2), the entity that initiated the petition for rehearing may take no action and wait for the Indiana board to make a final determination or petition for judicial review under subsection (g).

(b) A person may petition for judicial review of the final determination of the Indiana board regarding the assessment of that person's tangible property. The action shall be taken to the tax court under IC 4-21.5-5. Petitions for judicial review may be consolidated at the request of the appellants if it can be done in the interest of justice. The property tax assessment board of appeals that made the determination under appeal under this section may, with the approval of the county executive, file an amicus curiae brief in the review proceeding under this section. The expenses incurred by the property tax assessment board of appeals in filing the amicus curiae brief shall

be paid from the property reassessment fund under IC 6-1.1-4-27.5. In addition, the executive of a taxing unit may file an amicus curiae brief in the review proceeding under this section if the property whose assessment is under appeal is subject to assessment by that taxing unit. The department of local government finance may intervene in an action taken under this subsection if the interpretation of a rule of the department is at issue in the action. A township assessor, county assessor, member of a county property tax assessment board of appeals, or county property tax assessment board of appeals that made the original assessment determination under appeal under this section is a party to the review under this section to defend the determination.

(c) Except as provided in subsection (g), to initiate a proceeding for judicial review under this section, a person must take the action required by subsection (b) not later than:

- (1) forty-five (45) days after the Indiana board gives the person notice of its final determination, unless a rehearing is conducted under subsection (a); or
- (2) thirty (30) days after the Indiana board gives the person notice under subsection (a) of its final determination, if a rehearing is conducted under subsection (a) or the maximum time elapses for the Indiana board to make a determination under this section.

(d) The failure of the Indiana board to conduct a hearing within the period prescribed in section ~~4(f)~~ **4(h)** or ~~4(g)~~ **4(i)** of this chapter does not constitute notice to the person of an Indiana board final determination.

(e) The county executive may petition for judicial review to the tax court in the manner prescribed in this section upon request by the county assessor, ~~or the elected township assessor, or an affected taxing unit. If an appeal is taken at the request of an affected taxing unit, the taxing unit shall pay the costs of the appeal.~~

(f) If the county executive determines upon a request under this subsection to not appeal to the tax court:

- (1) the entity described in subsection (b) that made the original determination under appeal under this section may take an appeal to the tax court in the manner prescribed in this section using funds from that entity's budget; and
- (2) the petitioner may not be represented by the attorney general in an action described in subdivision (1).

(g) If the maximum time elapses for the Indiana board to give notice of its final determination under subsection (a) or section 4 of this chapter, a person may initiate a proceeding for judicial review by taking the action required by subsection (b) at any time after the maximum time elapses. If:

- (1) a judicial proceeding is initiated under this subsection; and
- (2) the Indiana board has not issued a determination;

the tax court shall determine the matter de novo.

SECTION 11. IC 6-1.1-15-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) If the assessment of tangible property is corrected by the department of local government finance or the county property tax assessment board of appeals under section 8 of this chapter, the owner of the property has a right to appeal the final determination of the corrected assessment to the Indiana board. The county executive also has a right to appeal the final determination of the reassessment by the department of local government finance or the county property tax assessment board of appeals but only upon request by the county assessor, ~~or the elected township assessor, or an affected taxing unit. If the appeal is taken at the request of an affected taxing unit, the taxing unit shall pay the costs of the appeal.~~

(b) An appeal under this section must be initiated in the manner prescribed in section 3 of this chapter or IC 6-1.5-5.

SECTION 12. IC 6-1.1-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) When formulating an annual budget estimate, the proper officers of a political subdivision shall prepare an estimate of the amount of revenue which the political subdivision will receive from the state for and during the budget year for which the budget is being formulated. These estimated revenues shall be shown in the budget estimate and shall be taken into consideration in calculating the tax levy which is to be made for the ensuing calendar year. However, this section does not apply to funds to be received from the state or the federal government for:

- (1) ~~poor relief; township assistance;~~
- (2) unemployment relief;
- (3) old age pensions; or
- (4) other funds which may at any time be made available under "The Economic Security Act" or under any other federal act which provides for civil and public works projects.

(b) When formulating an annual budget estimate, the proper officers of a political subdivision shall prepare an estimate of the amount of revenue that the political subdivision will receive under a development agreement (as defined in IC 36-1-8-9.5) for and during the budget year for which the budget is being formulated. Revenue received under a development agreement may not be used to reduce the political subdivision's maximum levy under IC 6-1.1-18.5 but may be used at the discretion of the political subdivision to reduce the property tax levy of the political subdivision for a particular year.

SECTION 13. IC 6-1.1-17-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. (a) This section applies:

- (1) to each governing body of a taxing unit that is not comprised of a majority of officials who are elected to serve on the governing body; and
- (2) if the proposed property tax levy:

(A) for the taxing unit (other than a public library) for the ensuing calendar year is more than five percent (5%) greater than the property tax levy for the taxing unit for the current calendar year; or

(B) for the operating budget of a public library for the ensuing calendar year is more than five percent (5%) greater than the property tax levy for the operating budget of the public library for the current calendar year.

(b) As used in this section, "taxing unit" has the meaning set forth in IC 6-1.1-1-21, except that the term does not include a school corporation.

(c) This subsection does not apply to a public library. If:

- (1) the assessed valuation of a taxing unit is entirely contained within a city or town; or
- (2) the assessed valuation of a taxing unit is not entirely contained within a city or town but the taxing unit was originally established by the city or town;

the governing body shall submit its proposed budget and property tax levy to the city or town fiscal body. The proposed budget and levy shall be submitted at least fourteen (14) days before the city or town fiscal body is required to hold budget approval hearings under this chapter.

(d) This subsection does not apply to a public library. If subsection (c) does not apply, the governing body of the taxing unit shall submit its proposed budget and property tax levy to the county fiscal body in the county where the taxing unit has the most assessed valuation. The proposed budget and levy shall be submitted at least fourteen (14) days before the county fiscal body is required to hold budget approval hearings under this chapter.

(e) This subsection applies to a public library. The library board of a public library subject to this section shall submit its proposed budget and property tax levy to the fiscal body designated under IC 20-14-14.

~~(f)~~ **(f) Subject to subsection (g), the fiscal body of the city, town, or county (whichever applies) or the fiscal body designated under IC 20-14-14 (in the case of a public library) shall review each budget and proposed tax levy and adopt a final budget and tax levy for the taxing unit. The fiscal body may reduce or modify but not increase the proposed budget or tax levy.**

(g) A fiscal body's review under subsection (f) is limited to the proposed operating budget of the public library and the proposed property tax levy for the library's operating budget.

SECTION 14. IC 6-1.1-33.5-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) **Not later than May 1 of each calendar year, the division of data analysis shall:**

(1) prepare a report that includes:

- (A) each political subdivision's total amount of expenditures per person during the immediately**

preceding calendar year, based on the political subdivision's population determined by the most recent federal decennial census; and

(B) based on the information prepared for all political subdivisions under clause (A), the highest, lowest, median, and average amount of expenditures per person for each type of political subdivision throughout Indiana.

(2) post the report on the web site maintained by the department of local government finance; and

(3) file the report:

(A) with the governor; and

(B) in an electronic format under IC 5-14-6 with the general assembly.

The report must be presented in a format that is understandable to the average individual and that permits easy comparison of the information prepared for each political subdivision under subdivision (1)(A) to the statewide information prepared for that type of political subdivision under subdivision (1)(B).

(b) The department of local government finance shall organize the report under subsection (a) to present together the information derived from each type of political subdivision.

SECTION 15. IC 6-1.5-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) After receiving a petition for review that is filed under a statute listed in section 1(a) of this chapter, the Indiana board shall, at its earliest opportunity:

(1) conduct a hearing; or

(2) cause a hearing to be conducted by an administrative law judge.

The Indiana board may determine to conduct the hearing under subdivision (1) on its own motion or on request of a party to the appeal.

(b) In its resolution of a petition, the Indiana board may:

(1) assign:

(A) full;

(B) limited; or

(C) no;

evidentiary value to the assessed valuation of tangible property determined by stipulation submitted as evidence of a comparable sale; and

(2) correct any errors that may have been made, and adjust the assessment in accordance with the correction.

(c) The Indiana board shall give notice of the date fixed for the hearing by mail to:

(1) the taxpayer;

(2) the department of local government finance; and

(3) the appropriate:

(A) township assessor;

(B) county assessor; and

(C) county auditor.

(d) With respect to an appeal of the assessment of real property or personal property filed after June 30, 2005, the notices required under subsection (c) must include the following:

(1) The action of the department of local government finance with respect to the appealed items.

(2) A statement that a taxing unit receiving the notice from the county auditor under subsection (e) may:

(A) attend the hearing;

(B) offer testimony; and

(C) file an amicus curiae brief in the proceeding.

A taxing unit that receives a notice from the county auditor under subsection (e) is not a party to the appeal.

(e) If, after receiving notice of a hearing under subsection (c), the county auditor determines that the assessed value of the appealed items constitutes at least one percent (1%) of the total gross certified assessed value of a particular taxing unit for the assessment date immediately preceding the assessment date for which the appeal was filed, the county auditor shall send a copy of the notice to the affected taxing unit. Failure of the county auditor to send a copy of the notice to the affected taxing unit does not affect the validity of the appeal or delay the appeal.

(f) The Indiana board shall give the notices required under subsection (c) at least thirty (30) days before the day fixed for the hearing.

SECTION 16. IC 6-1.5-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. After the hearing, the Indiana board shall give the petitioner, the township assessor, the county assessor, the county auditor, the affected taxing units required to be notified under section 2(e) of this chapter, and the department of local government finance:

(1) notice, by mail, of its final determination, findings of fact, and conclusions of law; and

(2) notice of the procedures the petitioner or the department of local government finance must follow in order to obtain court review of the final determination of the Indiana board.

SECTION 17. IC 6-3.1-1-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 3. A taxpayer (as defined in the following laws), pass through entity (as defined in the following laws), or shareholder, partner, or member of a pass through entity may not be granted more than one (1) tax credit under the following laws for the same project:

(1) IC 6-3.1-10 (enterprise zone investment cost credit).

(2) IC 6-3.1-11 (industrial recovery tax credit).

(3) IC 6-3.1-11.5 (military base recovery tax credit).

(4) IC 6-3.1-11.6 (military base investment cost credit).

(5) IC 6-3.1-13.5 (capital investment tax credit).

(6) IC 6-3.1-19 (community revitalization enhancement district tax credit).

(7) IC 6-3.1-24 (venture capital investment tax credit).

(8) IC 6-3.1-26 (Hoosier business investment tax credit).

If a taxpayer, pass through entity, or shareholder, partner, or member of a pass through entity has been granted more than one (1) tax credit for the same project, the taxpayer, pass through entity, or shareholder, partner, or member of a pass through entity must elect to apply only one (1) of the tax credits in the manner and form prescribed by the department.

SECTION 18. IC 6-3.1-26-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 5.5. As used in this chapter, "motion picture or audio production" means a:

(1) feature length film;

(2) video;

(3) television series;

(4) commercial;

(5) music video or an audio recording; or

(6) corporate production;

for any combination of theatrical, television, or other media viewing or as a television pilot. The term does not include a motion picture that is obscene (as described in IC 35-49-2-1) or television coverage of news or athletic events.

SECTION 19. IC 6-3.1-26-8, AS AMENDED BY P.L.4-2005, SECTION 103, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. (a) As used in this chapter, "qualified investment" means the amount of the taxpayer's expenditures in Indiana for:

(1) the purchase of new telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, or finishing, distribution, transportation, or logistical distribution equipment;

(2) the purchase of new computers and related equipment;

(3) costs associated with the modernization of existing telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, or finishing, distribution, transportation, or logistical distribution facilities;

(4) onsite infrastructure improvements;

(5) the construction of new telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, or finishing, distribution, transportation, or logistical distribution facilities;

(6) costs associated with retooling existing machinery and equipment; and

(7) costs associated with the construction of special purpose buildings and foundations for use in the computer, software, biological sciences, or telecommunications industry; and

(8) costs associated with the purchase, before January 1,

2008, of machinery, equipment, or special purpose buildings used to make motion pictures or audio productions;

that are certified by the corporation under this chapter as being eligible for the credit under this chapter.

(b) The term does not include property that can be readily moved outside Indiana.

SECTION 20. IC 6-3.1-26-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 14. ~~(a) The total amount of a tax credit claimed for a taxable year under this chapter equals thirty percent (30%) of the amount of a qualified investment made by the taxpayer in Indiana during that taxable year.~~

~~(b) In the taxable year in which a taxpayer makes a qualified investment, the taxpayer may claim a credit under this chapter in an amount equal to the lesser of:~~

- ~~(1) thirty percent (30%) of the amount of the qualified investment; or~~
- ~~(2) the taxpayer's state tax liability growth.~~

The taxpayer may carry forward any unused credit.

SECTION 21. IC 6-3.1-26-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15. (a) A taxpayer may carry forward an unused credit for **the number of years determined by the corporation, not more than to exceed nine (9) consecutive taxable years, beginning with the taxable year after the taxable year in which the taxpayer makes the qualified investment.**

(b) The amount that a taxpayer may carry forward to a particular taxable year under this section equals the ~~lesser of the following:~~

- ~~(1) The taxpayer's state tax liability growth;~~
- ~~(2) The unused part of a credit allowed under this chapter.~~

(c) A taxpayer may:

- (1) claim a tax credit under this chapter for a qualified investment; and
- (2) carry forward a remainder for one (1) or more different qualified investments;

in the same taxable year.

(d) The total amount of each tax credit claimed under this chapter may not exceed ~~thirty ten percent (30%) (10%)~~ of the qualified investment for which the tax credit is claimed.

SECTION 22. IC 6-3.1-26-16, AS AMENDED BY P.L.4-2005, SECTION 107, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 16. If a pass through entity does not have state tax liability growth against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

SECTION 23. IC 6-3.1-26-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 18. After receipt of an application, the corporation may enter into an agreement with the applicant for a credit under this chapter if the corporation determines that all the following conditions exist:

- ~~(1) The applicant has conducted business in Indiana for at least one (1) year immediately preceding the date the application is received;~~
- ~~(2) (1) The applicant's project will raise the total earnings of employees of the applicant in Indiana.~~
- ~~(3) (2) The applicant's project is economically sound and will benefit the people of Indiana by increasing opportunities for employment and strengthening the economy of Indiana.~~
- ~~(4) (3) Receiving the tax credit is a major factor in the applicant's decision to go forward with the project and not receiving the tax credit will result in the applicant not raising the total earnings of employees in Indiana.~~
- ~~(5) (4) Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.~~
- ~~(6) (5) The credit is not prohibited by section 19 of this chapter.~~
- ~~(7) (6) The average wage that will be paid by the taxpayer to its employees (excluding highly compensated employees) at the location after the credit is given will be at least equal to one~~

hundred fifty percent (150%) of the hourly minimum wage under IC 22-2-2-4 or its equivalent.

SECTION 24. IC 6-3.5-7-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 31, 2005 (RETROACTIVE)]: Sec. 25. (a) This section applies only to a county that has adopted an ordinance under IC 6-1.1-12-41(f).

(b) For purposes of this section, "imposing entity" means the entity that adopted the ordinance under IC 6-1.1-12-41(f).

(c) The imposing entity may adopt an ordinance to provide for the use of the certified distribution described in section 16(c) of this chapter for the purpose provided in subsection (e). A county income tax council that adopts an ordinance under this subsection shall use the procedures set forth in IC 6-3.5-6 concerning the adoption of an ordinance for the imposition of the county option income tax. Except as provided in subsection (j), an ordinance must be adopted under this subsection after January 1 but before April June 1 of a calendar year. The ordinance may provide for an additional rate under section 5(p) of this chapter. An ordinance adopted under this subsection:

- (1) first applies to the certified distribution described in section 16(c) of this chapter made in the calendar year that immediately succeeds the calendar year in which the ordinance is adopted;
- (2) must specify the calendar years to which the ordinance applies; and
- (3) must specify that the certified distribution must be used to provide for:

- (A) uniformly applied increased homestead credits as provided in subsection (f); or
- (B) allocated increased homestead credits as provided in subsection (h).

An ordinance adopted under this subsection may be combined with an ordinance adopted under section 26 of this chapter.

(d) If an ordinance is adopted under subsection (c), the percentage of the certified distribution specified in the ordinance for use for the purpose provided in subsection (e) shall be:

- (1) retained by the county auditor under subsection ~~(g); (i);~~ and
- (2) used for the purpose provided in subsection (e) instead of the purposes specified in the capital improvement plans adopted under section 15 of this chapter.

(e) If an ordinance is adopted under subsection (c), the imposing entity shall use the certified distribution described in section 16(c) of this chapter to increase the homestead credit allowed in the county under IC 6-1.1-20.9 for a year to offset the effect on homesteads in the county resulting from a county deduction for inventory under IC 6-1.1-12-41.

(f) If the imposing entity specifies the application of uniform increased homestead credits under subsection (c)(3)(A), the county auditor shall, for each calendar year in which an increased homestead credit percentage is authorized under this section, determine:

- (1) the amount of the certified distribution that is available to provide an increased homestead credit percentage for the year;
- (2) the amount of uniformly applied homestead credits for the year in the county that equals the amount determined under subdivision (1); and
- (3) the increased percentage of homestead credit that equates to the amount of homestead credits determined under subdivision (2).

(g) The increased percentage of homestead credit determined by the county auditor under subsection (f) applies uniformly in the county in the calendar year for which the increased percentage is determined.

(h) If the imposing entity specifies the application of allocated increased homestead credits under subsection (c)(3)(B), the county auditor shall, for each calendar year in which an increased homestead credit is authorized under this section, determine:

- (1) the amount of the certified distribution that is available to provide an increased homestead credit for the year; and
- (2) an increased percentage of homestead credit for each taxing district in the county that allocates to the taxing district an amount of increased homestead credits that bears the same proportion to the amount determined under subdivision (1) that the amount of inventory assessed value deducted under IC 6-1.1-12-41 in the taxing district for the immediately preceding year's assessment date bears to the total inventory

assessed value deducted under IC 6-1.1-12-41 in the county for the immediately preceding year's assessment date.

(i) The county auditor shall retain from the payments of the county's certified distribution an amount equal to the revenue lost, if any, due to the increase of the homestead credit within the county. The money shall be distributed to the civil taxing units and school corporations of the county:

- (1) as if the money were from property tax collections; and
- (2) in such a manner that no civil taxing unit or school corporation will suffer a net revenue loss because of the allowance of an increased homestead credit.

(j) An entity authorized to adopt:

- (1) an ordinance under subsection (c); and
- (2) an ordinance under IC 6-1.1-12-41(f);

may consolidate the two (2) ordinances. The limitation under subsection (c) that an ordinance must be adopted after January 1 of a calendar year does not apply if a consolidated ordinance is adopted under this subsection. **However, notwithstanding subsection (c)(1), the ordinance must state that it first applies to certified distributions in the calendar year in which property taxes are initially affected by the deduction under IC 6-1.1-12-41.**

SECTION 25. IC 6-3.5-7-25.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 25.5. Subject to the approval of the imposing entity, the county auditor may adjust the increased percentage of homestead credit determined under section 25(h)(2) of this chapter if the county auditor determines that the adjustment is necessary to achieve an equitable reduction of property taxes among the homesteads in the county.**

SECTION 26. IC 6-3.5-7-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 26. (a) This section applies only to homestead credits for property taxes first due and payable after calendar year 2006.**

(b) For purposes of this section, "adopting entity" means:

- (1) the entity that adopts an ordinance under IC 6-1.1-12-41(f); or
- (2) any other entity that may impose a county economic development income tax under section 5 of this chapter.

(c) An adopting entity may adopt an ordinance to provide for the use of the certified distribution described in section 16(c) of this chapter for the purpose provided in subsection (e). An adopting entity that adopts an ordinance under this subsection shall use the procedures set forth in IC 6-3.5-6 concerning the adoption of an ordinance for the imposition of the county option income tax. An ordinance must be adopted under this subsection after January 1 but before April 1 of a calendar year. The ordinance may provide for an additional rate under section 5(p) of this chapter. An ordinance adopted under this subsection:

- (1) first applies to the certified distribution described in section 16(c) of this chapter made in the later of the calendar year that immediately succeeds the calendar year in which the ordinance is adopted or calendar year 2007; and
- (2) must specify that the certified distribution must be used to provide for:
 - (A) uniformly applied increased homestead credits as provided in subsection (f); or
 - (B) allocated increased homestead credits as provided in subsection (h).

An ordinance adopted under this subsection may be combined with an ordinance adopted under section 25 of this chapter.

(d) If an ordinance is adopted under subsection (c), the percentage of the certified distribution specified in the ordinance for use for the purpose provided in subsection (e) shall be:

- (1) retained by the county auditor under subsection ~~(g)~~; (i); and
- (2) used for the purpose provided in subsection (e) instead of the purposes specified in the capital improvement plans adopted under section 15 of this chapter.

(e) If an ordinance is adopted under subsection (c), the adopting entity shall use the certified distribution described in section 16(c) of this chapter to increase the homestead credit allowed in the county under IC 6-1.1-20.9 for a year to offset the effect on homesteads in the county resulting from the statewide deduction for inventory under IC 6-1.1-12-42.

(f) If the imposing entity specifies the application of uniform increased homestead credits under subsection (c)(2)(A), the county auditor shall, for each calendar year in which an increased homestead credit percentage is authorized under this section, determine:

- (1) the amount of the certified distribution that is available to provide an increased homestead credit percentage for the year;
- (2) the amount of uniformly applied homestead credits for the year in the county that equals the amount determined under subdivision (1); and
- (3) the increased percentage of homestead credit that equates to the amount of homestead credits determined under subdivision (2).

(g) The increased percentage of homestead credit determined by the county auditor under subsection (f) applies uniformly in the county in the calendar year for which the increased percentage is determined.

(h) If the imposing entity specifies the application of allocated increased homestead credits under subsection (c)(2)(B), the county auditor shall, for each calendar year in which an increased homestead credit is authorized under this section, determine:

- (1) the amount of the certified distribution that is available to provide an increased homestead credit for the year; and
- (2) **except as provided in subsection (j)**, an increased percentage of homestead credit for each taxing district in the county that allocates to the taxing district an amount of increased homestead credits that bears the same proportion to the amount determined under subdivision (1) that the amount of inventory assessed value deducted under IC 6-1.1-12-42 in the taxing district for the immediately preceding year's assessment date bears to the total inventory assessed value deducted under IC 6-1.1-12-42 in the county for the immediately preceding year's assessment date.

(i) The county auditor shall retain from the payments of the county's certified distribution an amount equal to the revenue lost, if any, due to the increase of the homestead credit within the county. The money shall be distributed to the civil taxing units and school corporations of the county:

- (1) as if the money were from property tax collections; and
- (2) in such a manner that no civil taxing unit or school corporation will suffer a net revenue loss because of the allowance of an increased homestead credit.

(j) Subject to the approval of the imposing entity, the county auditor may adjust the increased percentage of homestead credit determined under subsection (h)(2) if the county auditor determines that the adjustment is necessary to achieve an equitable reduction of property taxes among the homesteads in the county.

SECTION 27. IC 20-14-14 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 14. Review of Budgets of Appointed Boards

Sec. 1. Before an appointed library board described in IC 6-1.1-17-20(a)(2)(B) may impose a property tax levy for the operating budget of a public library for the ensuing calendar year that is more than five percent (5%) greater than the property tax levy for the operating budget of the public library for the current calendar year, the library board must submit its proposed budget and property tax levy to the appropriate fiscal body under section 2 of this chapter.

Sec. 2. An appointed library board subject to section 1 of this chapter shall submit its proposed operating budget and property tax levy for the operating budget to the following fiscal body at least fourteen (14) days before the first meeting of the county board of tax adjustment under IC 6-1.1-29-4:

- (1) If the library district is located entirely within the corporate boundaries of a municipality, the fiscal body of the municipality.
- (2) If the library district:
 - (A) is not described by subdivision (1); and
 - (B) is located entirely within the boundaries of a township;

the fiscal body of the township.
- (3) If the library district is not described by subdivision (1)

or (2), the fiscal body of each county in which the library district is located.

SECTION 28. IC 36-1-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) Each unit that receives:

- (1) tax revenue under IC 4-33-12-6 ~~or IC 4-33-13; or~~
- (2) ~~revenue under an agreement to share a city's or county's part of the tax revenue received under IC 4-33-12 or IC 4-33-13 by another unit; or~~
- (3) **revenue under a development agreement (as defined in section 9.5 of this chapter);**

may establish a riverboat fund. Money in the fund may be used for any legal or corporate purpose of the unit.

(b) The riverboat fund established under subsection (a) shall be administered by the unit's treasurer, and the expenses of administering the fund shall be paid from money in the fund. Money in the fund not currently needed to meet the obligations of the fund may be invested in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a particular fiscal year does not revert to the unit's general fund.

SECTION 29. IC 36-1-8-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9.5. (a) **As used in this section, "development agreement" means an agreement between a licensed owner (as defined in IC 4-33-2-13) and a unit setting forth the licensed owner's financial commitments to support economic development in the unit.**

(b) **Funds received by a unit under a development agreement are public funds (as defined in IC 5-13-4-20).**

(c) **Funds received under a development agreement:**

- (1) **may not be used to reduce the unit's maximum levy under IC 6-1.1-18.5 but may be used at the discretion of the unit to reduce the property tax levy of the unit for a particular year;**
- (2) **may be used for any legal or corporate purpose of the unit, including the pledge of money to bonds, leases, or other obligations under IC 5-1-14-4; and**
- (3) **are considered miscellaneous revenue.**

SECTION 30. IC 36-7-13-3.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.4. (a) Except as provided in subsection (b), as used in this chapter, "income tax incremental amount" means the remainder of:

- (1) the aggregate amount of state and local income taxes paid by employees employed in a district with respect to wages earned for work in the district for a particular state fiscal year; minus
- (2) **the sum of the:**

- (A) income tax base period amount; and
- (B) **tax credits awarded by the economic development for a growing economy board under IC 6-3.1-13 to businesses operating in a district as the result of wages earned for work in the district for the state fiscal year;**

as determined by the department of state revenue under section 14 of this chapter.

(b) For purposes of a district designated under section 12.1 of this chapter, "income tax incremental amount" means seventy-five percent (75%) of the amount described in subsection (a).

SECTION 31. IC 36-7-13-10.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10.5. (a) This section applies only to a county that meets the following conditions:

- (1) The county's annual rate of unemployment has been above the average annual statewide rate of unemployment during at least three (3) of the preceding five (5) years.
- (2) The median income of the county has:
 - (A) declined over the preceding ten (10) years; or
 - (B) has grown at a lower rate than the average annual statewide growth in median income during at least three (3) of the preceding five (5) years.
- (3) The population of the county (as determined by the legislative body of the county) has declined over the preceding ten (10) years.

(b) Except as provided in section 10.7 of this chapter, in a county described in subsection (a), the legislative body of the county may

adopt an ordinance designating an unincorporated part or unincorporated parts of the county as a district, and the legislative body of a municipality located within the county may adopt an ordinance designating a part or parts of the municipality as a district, if the legislative body finds all of the following:

(1) The area to be designated as a district contains a building or buildings that:

- (A) have a total of at least fifty thousand (50,000) square feet of usable interior floor space; and
 - (B) are vacant or will become vacant due to the relocation of the employer or the cessation of operations on the site by the employer.
- (2) Significantly fewer persons are employed in the area to be designated as a district than were employed in the area during the year that is ten (10) years previous to the current year.
- (3) There are significant obstacles to redevelopment in the area due to any of the following problems:
- (A) Obsolete or inefficient buildings.
 - (B) Aging infrastructure or inefficient utility services.
 - (C) Utility relocation requirements.
 - (D) Transportation or access problems.
 - (E) Topographical obstacles to redevelopment.
 - (F) Environmental contamination or remediation.

(c) A legislative body adopting an ordinance under subsection (b) shall designate the duration of the district. However, a district must terminate not later than fifteen (15) years after the income tax incremental amount or gross retail incremental amount is first allocated to the district.

(d) Except as provided in section 10.7 of this chapter, upon adoption of an ordinance designating a district, the legislative body shall:

- (1) **publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1; and**
- (2) **file the following information with each taxing unit in the county where the district is located:**
 - (A) **A copy of the notice required by subdivision (1).**
 - (B) **A statement disclosing the impact of the district, including the following:**
 - (i) **The estimated economic benefits and costs incurred by the district, as measured by increased employment and anticipated growth of property assessed values.**
 - (ii) **The anticipated impact on tax revenues of each taxing unit.**

The notice must state the general boundaries of the district.

(e) **Upon completion of the actions required by subsection (d), the legislative body shall** submit the ordinance to the budget committee for review and recommendation to the budget agency. If the budget agency fails to take action on an ordinance designating a district within one hundred twenty (120) days after the date that the ordinance is submitted to the budget committee, the designation of the district by the ordinance is considered approved.

(f) Except as provided in section 10.7 of this chapter, when considering the designation of a district by an ordinance adopted under this section, the budget committee and the budget agency must make the following findings before approving the designation of the district:

- (1) The area to be designated as a district meets the conditions necessary for the designation as a district.
- (2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(g) Except as provided in section 10.7 of this chapter, the income tax incremental amount and the gross retail incremental amount may not be allocated to the district until the designation of the district by the local ordinance is approved under this section.

SECTION 32. IC 36-7-13-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) If a municipal or county executive has submitted an application to an advisory commission on industrial development requesting that an area be designated as a district under this chapter and the advisory commission has compiled and prepared the information required under section 11 of this chapter concerning the area, the advisory commission may adopt a resolution designating the area as a district

if it makes the findings described in subsection (b), (c), (d), or (e). In a county described in subsection (c), an advisory commission may designate more than one (1) district under subsection (c).

(b) For an area located in a county having a population of more than one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

- (1) The area contains a building or buildings:
 - (A) with at least one million (1,000,000) square feet of usable interior floor space; and
 - (B) that is or are vacant or will become vacant due to the relocation of an employer.
- (2) At least one thousand (1,000) fewer persons are employed in the area than were employed in the area during the year that is ten (10) years previous to the current year.
- (3) There are significant obstacles to redevelopment of the area due to any of the following problems:
 - (A) Obsolete or inefficient buildings.
 - (B) Aging infrastructure or inefficient utility services.
 - (C) Utility relocation requirements.
 - (D) Transportation or access problems.
 - (E) Topographical obstacles to redevelopment.
 - (F) Environmental contamination.
- (4) The unit has expended, appropriated, pooled, set aside, or pledged at least one hundred thousand dollars (\$100,000) for purposes of addressing the redevelopment obstacles described in subdivision (3).
- (5) The area is located in a county having a population of more than one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000).

(c) For a county having a population of more than one hundred eighteen thousand (118,000) but less than one hundred twenty thousand (120,000), an advisory commission may adopt a resolution designating not more than two (2) areas as districts. An advisory commission may designate an area as a district only after finding the following:

- (1) The area meets either of the following conditions:
 - (A) The area contains a building with at least seven hundred ninety thousand (790,000) square feet, and at least eight hundred (800) fewer people are employed in the area than were employed in the area during the year that is fifteen (15) years previous to the current year.
 - (B) The area contains a building with at least three hundred eighty-six thousand (386,000) square feet, and at least four hundred (400) fewer people are employed in the area than were employed in the area during the year that is fifteen (15) years previous to the current year.
- (2) The area is located in or is adjacent to an industrial park.
- (3) There are significant obstacles to redevelopment of the area due to any of the following problems:
 - (A) Obsolete or inefficient buildings.
 - (B) Aging infrastructure or inefficient utility services.
 - (C) Utility relocation requirements.
 - (D) Transportation or access problems.
 - (E) Topographical obstacles to redevelopment.
 - (F) Environmental contamination.
- (4) The area is located in a county having a population of more than one hundred eighteen thousand (118,000) but less than one hundred twenty thousand (120,000).

(d) For an area located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

- (1) The area contains a building or buildings:
 - (A) with at least one million five hundred thousand (1,500,000) square feet of usable interior floor space; and
 - (B) that is or are vacant or will become vacant.
- (2) At least eighteen thousand (18,000) fewer persons are employed in the area at the time of application than were employed in the area before the time of application.
- (3) There are significant obstacles to redevelopment of the area

due to any of the following problems:

- (A) Obsolete or inefficient buildings.
- (B) Aging infrastructure or inefficient utility services.
- (C) Utility relocation requirements.
- (D) Transportation or access problems.
- (E) Topographical obstacles to redevelopment.
- (F) Environmental contamination.

(4) The unit has expended, appropriated, pooled, set aside, or pledged at least one hundred thousand dollars (\$100,000) for purposes of addressing the redevelopment obstacles described in subdivision (3).

(5) The area is located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

(e) For an area located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

- (1) The area contains a building or buildings:
 - (A) with at least eight hundred thousand (800,000) gross square feet; and
 - (B) having leasable floor space, at least fifty percent (50%) of which is or will become vacant.
- (2) There are significant obstacles to redevelopment of the area due to any of the following problems:
 - (A) Obsolete or inefficient buildings as evidenced by a decline of at least seventy-five percent (75%) in their assessed valuation during the preceding ten (10) years.
 - (B) Transportation or access problems.
 - (C) Environmental contamination.
- (3) At least four hundred (400) fewer persons are employed in the area than were employed in the area during the year that is fifteen (15) years previous to the current year.
- (4) The area has been designated as an economic development target area under IC 6-1.1-12.1-7.
- (5) The unit has appropriated, pooled, set aside, or pledged at least two hundred fifty thousand dollars (\$250,000) for purposes of addressing the redevelopment obstacles described in subdivision (2).
- (6) The area is located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(f) The advisory commission, or the county or municipal legislative body, in the case of a district designated under section 10.5 of this chapter, shall designate the duration of the district. However, a district must terminate not later than fifteen (15) years after the income tax incremental amount or gross retail incremental amount is first allocated to the district.

(g) Upon adoption of a resolution designating a district, the advisory commission shall:

- (1) **publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1; and**
- (2) **file the following information with each taxing unit in the county where the district is located:**

- (A) **A copy of the notice required by subdivision (1).**
- (B) **A statement disclosing the impact of the district, including the following:**
 - (i) **The estimated economic benefits and costs incurred by the district, as measured by increased employment and anticipated growth of property assessed values.**
 - (ii) **The anticipated impact on tax revenues of each taxing unit.**

The notice must state the general boundaries of the district.

(h) **Upon completion of the actions required by subsection (g), the advisory commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. If the budget agency fails to take action on a resolution designating a district within one hundred twenty (120) days after the date that the resolution is submitted to the budget committee, the designation of the district by the resolution is considered approved.**

(i) When considering a resolution, the budget committee and the budget agency must make the following findings:

(1) The area to be designated as a district meets the conditions necessary for designation as a district.

(2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

⊕ (j) The income tax incremental amount and the gross retail incremental amount may not be allocated to the district until the resolution is approved under this section.

SECTION 33. IC 36-7-13-12.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12.1. (a) If the executive of a city described in section 10.1(a) of this chapter has submitted an application to an advisory commission on industrial development requesting that an area be designated as a district under this chapter and the advisory commission has compiled and prepared the information required under section 11 of this chapter concerning the area, the advisory commission may adopt a resolution designating the area as a district if it finds the following:

(1) That the redevelopment of the area in the district will:

- (A) promote significant opportunities for the gainful employment of its citizens;
- (B) attract a major new business enterprise to the area; or
- (C) retain or expand a significant business enterprise within the area.

(2) That there are significant obstacles to redevelopment of the area due to any of the following problems:

- (A) Obsolete or inefficient buildings.
- (B) Aging infrastructure or ineffective utility services.
- (C) Utility relocation requirements.
- (D) Transportation or access problems.
- (E) Topographical obstacles to redevelopment.
- (F) Environmental contamination.
- (G) Lack of development or cessation of growth.
- (H) Deterioration of improvements or character of occupancy, age, obsolescence, or substandard buildings.
- (I) Other factors that have impaired values or prevent a normal development of property or use of property.

(b) To address the obstacles identified in subsection (a)(2), the city may make expenditures for:

- (1) the acquisition of land;
- (2) interests in land;
- (3) site improvements;
- (4) infrastructure improvements;
- (5) buildings;
- (6) structures;
- (7) rehabilitation, renovation, and enlargement of buildings and structures;
- (8) machinery;
- (9) equipment;
- (10) furnishings;
- (11) facilities;
- (12) administration expenses associated with such a project;
- (13) operating expenses; or
- (14) substance removal or remedial action to the area.

(c) In addition to the findings described in subsection (a), an advisory commission must also find that the city described in section 10.1(a) of this chapter has expended, appropriated, pooled, set aside, or pledged at least two hundred fifty thousand dollars (\$250,000) for purposes of addressing the redevelopment obstacles described in subsection (a)(2).

(d) The advisory commission shall designate the duration of the district. However, a district must terminate not later than fifteen (15) years after the income tax incremental amount or gross retail incremental amount is first allocated to the district under this chapter.

(e) Upon adoption of a resolution designating a district, the advisory commission shall:

- (1) **publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1; and**
- (2) **file the following information with each taxing unit in the county where the district is located:**
 - (A) **A copy of the notice required by subdivision (1).**
 - (B) **A statement disclosing the impact of the district, including the following:**
 - (i) **The estimated economic benefits and costs incurred**

by the district, as measured by increased employment and anticipated growth of property assessed values.

(ii) The anticipated impact on tax revenues of each taxing unit.

The notice must state the general boundaries of the district.

⊕ (f) Upon completion of the actions required by subsection (e), the advisory commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. If the budget agency fails to take action on a resolution designating a district within one hundred twenty (120) days after the date that the resolution is submitted to the budget committee, the designation of the district by the resolution is considered approved.

⊕ (g) When considering a resolution, the budget committee and the budget agency must make the following findings:

- (1) The area to be designated as a district meets the conditions necessary for designation as a district.
- (2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

⊕ (h) The income tax incremental amount and the gross retail incremental amount may not be allocated to the district until the resolution is approved under this section.

SECTION 34. IC 36-7-13-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) If an advisory commission on industrial development designates a district under section 12 or 12.1 of this chapter or if the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter, the advisory commission, or the legislative body in the case of a district designated under section 10.5 of this chapter, shall send a certified copy of the resolution or ordinance designating the district to the department of state revenue by certified mail and shall include with the resolution a complete list of the following:

- (1) Employers in the district.
- (2) Street names and the range of street numbers of each street in the district.
- (3) **Federal tax identification number of each business in the district.**
- (4) **The street address of each employer.**
- (5) **Name, telephone number, and electronic mail address (if available) of a contact person for each employer.**

(b) The advisory commission, or the legislative body in the case of a district designated under section 10.5 of this chapter, shall update the list:

- (1) before July 1 of each year; or
- (2) within fifteen (15) days after the date that the budget agency approves a petition to modify the boundaries of the district under section 12.5 of this chapter.

(c) Not later than sixty (60) days after receiving a copy of the resolution or ordinance designating a district, the department of state revenue shall determine the gross retail base period amount and the income tax base period amount.

(d) Not later than sixty (60) days after receiving a certification of a district's modified boundaries under section 12.5(c) of this chapter, the department shall recalculate the gross retail base period amount and the income tax base period amount for a district modified under section 12.5 of this chapter.

SECTION 35. IC 36-7-13-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 14. (a) Before the first business day in October of each year, the department shall calculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for each district designated under this chapter.

(b) Businesses operating in the district shall report, in the manner and in the form prescribed by the department, information that the department determines necessary to calculate incremental gross retail, use, and income taxes.

⊕ (c) Not later than sixty (60) days after receiving a certification of a district's modified boundaries under section 12.5(c) of this chapter, the department shall recalculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for a district modified under section 12.5 of this chapter.

SECTION 36. IC 36-7-31-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) Upon adoption of a resolution establishing a tax area under section 14 of this chapter, the commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. The budget committee shall meet not later than ~~ten (10)~~ sixty (60) days after receipt of a resolution and shall make a recommendation on the resolution to the budget agency.

(b) Upon adoption of a resolution changing the boundaries of a tax area under section 14 of this chapter, the commission shall:

- (1) publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1; and
- (2) file the following information with each taxing unit in the county in which the district is located:

(A) A copy of the notice required by subdivision (1).

(B) A statement disclosing the impact of the district, including the following:

- (i) The estimated economic benefits and costs incurred by the district, as measured by increased employment and anticipated growth of property assessed values.
- (ii) The anticipated impact on tax revenues of each taxing unit.

The notice must state the general boundaries of the district.

(c) Upon completion of the actions required by subsection (b), the commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. The budget committee shall meet not later than sixty (60) days after receipt of a resolution and shall make a recommendation on the resolution to the budget agency.

SECTION 37. IC 36-7-31.3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) Upon adoption of a resolution establishing a tax area under section 10 of this chapter, the designating body shall submit the resolution to the budget committee for review and recommendation to the budget agency.

(b) Upon adoption of a resolution changing the boundaries of a tax area under section 10 of this chapter, the commission shall:

- (1) publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1; and
- (2) file the following information with each taxing unit in the county where the district is located:

(A) A copy of the notice required by subdivision (1).

(B) A statement disclosing the impact of the district, including the following:

- (i) The estimated economic benefits and costs incurred by the district, as measured by increased employment and anticipated growth of property assessed values.
- (ii) The anticipated impact on tax revenues of each taxing unit.

The notice must state the general boundaries of the district.

(c) Upon completion of the actions required by subsection (b), the commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. The budget committee shall meet not later than sixty (60) days after receipt of a resolution and shall make a recommendation on the resolution to the budget agency.

SECTION 38. IC 36-7-32-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.5. As used in this chapter, "gross retail incremental amount" means the remainder of:

- (1) the aggregate amount of state gross retail and use taxes that are remitted under IC 6-2.5 by businesses operating in the territory comprising a certified technology park during a state fiscal year; minus
- (2) the gross retail base period amount;

as determined by the department of state revenue.

SECTION 39. IC 36-7-32-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8.5. As used in this chapter, "income tax incremental amount" means the remainder of:

- (1) the total amount of state adjusted gross income taxes, county adjusted gross income tax, county option income taxes, and county economic development income taxes paid

by employees employed in the territory comprising the certified technology park with respect to wages and salary earned for work in the territory comprising the certified technology park for a particular state fiscal year; minus

(2) the sum of the:

(A) income tax base period amount; and

(B) tax credits awarded by the economic development for a growing economy board under IC 6-3.1-13 to businesses operating in a certified technology park as the result of wages earned for work in the certified technology park for the state fiscal year;

as determined by the department of state revenue.

SECTION 40. IC 6-3.1-26-10 IS REPEALED [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)].

SECTION 41. [EFFECTIVE UPON PASSAGE] (a) An ordinance that:

(1) is adopted under IC 6-1.1-12-41 or IC 6-3.5-7-25 after March 30, 2004, and before the passage of this act; and

(2) would have been valid if this act had been enacted before the time the ordinance was adopted;

shall be treated as valid to the same extent as if this act had been enacted before the ordinance was adopted.

(b) The department of local government finance may adopt interim rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to govern the determination of deductions, the processing of personal property tax returns, and the calculation of the assessed valuation of each taxpayer in cases in which:

(1) the personal property of the taxpayer is eligible for a deduction under IC 6-1.1-12-41, as amended by this act, as the result of the adoption of an ordinance under IC 6-1.1-12-41, as amended by this act, after March 30, 2004; and

(2) the taxpayer did not take the deduction on the taxpayer's personal property tax return.

The rules may include special procedures and filing dates for filing an amended return.

(c) An interim rule adopted under subsection (b) expires on the earliest of the following:

(1) The date that the department of local government finance adopts an interim rule under subsection (b) to supersede a rule previously adopted under subsection (b).

(2) The date that the department of local government finance adopts a permanent rule under IC 4-22-2 to supersede a rule previously adopted under subsection (b).

(3) The date that the department of local government finance adopts under subsection (b) or IC 4-22-2 a repeal of a rule previously adopted under subsection (b).

(4) December 31, 2006.

SECTION 42. [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)] (a) IC 6-3.1-26-5.5, IC 6-3.1-26-14, IC 6-3.1-26-15, and IC 6-3.1-26-18, all as amended by this act, apply only to credits awarded by the Indiana economic development corporation under IC 6-3.1-26 after May 14, 2005. Credits awarded under IC 6-3.1-26 before May 15, 2005, remain subject to the provisions of IC 6-3.1-26 as in effect on May 14, 2005.

(b) IC 6-3.1-26-8, as amended by this act, applies to taxable years beginning after December 31, 2004.

SECTION 43. [EFFECTIVE JULY 1, 2005] IC 6-3.5-7-26, as amended by this act, applies only to property taxes first due and payable after December 31, 2006.

SECTION 44. [EFFECTIVE JULY 1, 2005] IC 6-3.5-7-25.5, as added by this act, applies only to property taxes first due and payable after December 31, 2005.

SECTION 45. [EFFECTIVE UPON PASSAGE] (a) IC 36-7-13-10.5, IC 36-7-13-12.1, IC 36-7-13-13, IC 36-7-31-12, and IC 36-7-31.3-11, all as amended by this act, apply only to districts established or expanded after June 30, 2005.

(b) IC 36-7-13-14, as amended by this act, applies to taxable years beginning after December 31, 2004.

(c) IC 36-7-13-3.4, as amended by this act, and IC 36-7-32-8.5, as added by this act, apply only to distributions for a community revitalization enhancement district or certified technology park

as the result of wages and salary earned for work in the community revitalization enhancement district or certified technology park after June 30, 2005.

SECTION 46. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 6-1.1-1 apply throughout this SECTION.

(b) For purposes of this SECTION:

- (1) "fiscal body" has the meaning set forth in IC 36-1-2-6;
- (2) "settlement amount" means an amount that:

- (A) exceeds ten million dollars (\$10,000,000); and
- (B) is received by the county auditor on behalf of a county and the political subdivisions in the county in 2005 or 2006 as a result of the settlement of one (1) or more cases before the Indiana tax court concerning the property tax assessments of tangible property that are the basis for determination of property taxes payable by a taxpayer in the county for one (1) or more calendar years that precede 2006; and

- (3) "subsequent year's taxes" means the property taxes imposed by a political subdivision on tangible property in the political subdivision, other than property taxes imposed on tangible property for which a taxpayer that paid all or part of the settlement amount is liable, for property taxes first due and payable in the calendar year that immediately succeeds the calendar year in which the settlement amount is received.

(c) The fiscal body of a political subdivision may adopt an ordinance:

- (1) before September 1, 2005, to direct the county auditor to use the part of a settlement amount attributable to the political subdivision to apply a credit against the subsequent year's taxes for property taxes first due and payable in 2006; and

- (2) before September 1, 2006, to direct the county auditor to use the part of a settlement amount attributable to the political subdivision to apply a credit against the subsequent year's taxes for property taxes first due and payable in 2007.

The total amount of the credits applied under this subsection must equal the part of the settlement amount received by the political subdivision in the immediately preceding calendar year. The settlement amount received must be used to replace the amount of property tax revenue lost due to the allowance of the credit in the political subdivision. The county auditor shall retain the settlement amount and distribute the money to the political subdivisions in the county as though the money were property tax collections and in such a manner that a political subdivision does not suffer a net revenue loss due to the allowance of the credit under this subsection.

(d) A credit under subsection (c) applies as a percentage of the liability for property taxes before the application of the credits under IC 6-1.1-20.9 and IC 6-1.1-21. The percentage applicable in a taxing district that is attributable to a political subdivision in which the taxing district is located is determined under the last STEP of the following STEPS:

STEP ONE: Determine the total assessed value of tangible property (after the application of all applicable deductions under IC 6-1.1), other than tangible property for which a taxpayer that paid all or part of the settlement amount is liable for property taxes, in the political subdivision that is the basis for the subsequent year's taxes.

STEP TWO: Determine the total assessed value of tangible property (after the application of all applicable deductions under IC 6-1.1), other than tangible property for which a taxpayer that paid all or part of the settlement amount is liable for property taxes, in the taxing district that constitutes a part of the total assessed value that is the basis for the subsequent year's taxes.

STEP THREE: Determine the quotient of the total assessed value determined under STEP TWO divided by the total assessed value determined under STEP ONE.

STEP FOUR: Determine the product of:

- (A) the part of a settlement amount attributable to the political subdivision; multiplied by
- (B) the quotient determined in STEP THREE.

STEP FIVE: Determine the total property tax levy in the taxing district for the subsequent year's taxes, before the application of the credits under IC 6-1.1-20.9 and IC 6-1.1-21.

STEP SIX: Determine the quotient of:

- (A) the product determined under STEP FOUR; divided by
- (B) the remainder determined under STEP FIVE; expressed as a percentage.

The total credit percentage applicable in a taxing district is the sum of the percentages determined under STEP SIX with respect to all political subdivisions in which the taxing district is located.

(e) If a fiscal body adopts an ordinance under subsection (c):

- (1) the part of the settlement amount attributable to the political subdivision is set aside in a separate fund of the political subdivision for the sole purpose of dedicating the money in the fund to providing credits under subsection (c);
- (2) money in the separate fund does not become part of the political subdivision's levy excess fund under IC 6-1.1-18.5-17 or IC 6-1.1-19-1.7; and

- (3) for the year in which the subsequent year's taxes are first due and payable, the total county tax levy under IC 6-1.1-21-2(g) is reduced by the part of the settlement amount attributable to the political subdivision that, notwithstanding subdivisions (1) and (2), would have been deposited in the political subdivision's levy excess fund under IC 6-1.1-18.5-17 or IC 6-1.1-19-1.7.

(f) This SECTION expires January 1, 2008.

SECTION 47. An emergency is declared for this act.

(Reference is to ESB 496 as reprinted April 5, 2005.)

KENLEY	ESPICH
SIMPSON	E. HARRIS
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed House Bill 1001 because it conflicts with SEA 327-2005 without properly recognizing the existence of SEA 327-2005, has had Engrossed House Bill 1001 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1001 be corrected as follows:

In the Conference Committee Report to EHB 1001, page 110, line 35, after "IC 6-1.1-3-23" insert ", AS AMENDED BY SEA 327-2005, SECTION 2,".

In the Conference Committee Report to EHB 1001, page 110, line 42, reset in roman "in Indiana;".

(Reference is to EHB 1001 as reprinted April 9, 2005, and as amended by the Conference Committee Report to EHB 1001 adopted April 29, 2005.)

WHETSTONE, Chair
PELATH, R.M.M.
ESPICH, Author

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed House Bill 1182 because it conflicts with HEA 1590-2005 without properly recognizing the existence of HEA 1590-2005, has had Engrossed House Bill 1182 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1182 be corrected as follows:

In the conference committee report for EHB 1182, page 10, line 1, after "IC 36-7-14-39" insert ", AS AMENDED BY HEA 1590-2005, SECTION 22,".

In the conference committee report for EHB 1182, page 10, line 4, delete "blighted" and insert "redevelopment project".

In the conference committee report for EHB 1182, page 10,

line 23, delete "blighted" and insert "redevelopment project".

In the conference committee report for EHB 1182, page 10, line 36, delete "blighted" and insert "redevelopment project".

In the conference committee report for EHB 1182, page 10, line 51, delete "portion" and insert "part".

In the conference committee report for EHB 1182, page 11, line 2, delete "blighted" and insert "redevelopment project".

In the conference committee report for EHB 1182, page 11, line 4, delete "portion" and insert "part".

In the conference committee report for EHB 1182, page 11, line 37, delete "blighted" and insert "redevelopment project".

In the conference committee report for EHB 1182, page 12, line 30, delete "portion" and insert "part".

In the conference committee report for EHB 1182, page 12, line 41, delete "(A)" and insert "(i)".

In the conference committee report for EHB 1182, page 12, line 45, delete "(B)" and insert "(ii)".

In the conference committee report for EHB 1182, page 12, line 47, delete "(A)" and insert "(i)".

In the conference committee report for EHB 1182, page 12, line 48, delete "(B)" and insert "(ii)".

In the conference committee report for EHB 1182, page 14, line 17, delete "IC 4-4-6.1," and insert "IC 5-28-15,".

In the conference committee report for EHB 1182, page 14, line 29, delete "portion" and insert "part".

In the conference committee report for EHB 1182, page 14, line 44, delete "portion" and insert "part".

In the conference committee report for EHB 1182, page 15, line 26, after "IC 36-7-15.1-26" insert ", AS AMENDED BY HEA 1590-2005, SECTION 38,".

In the conference committee report for EHB 1182, page 15, line 29, delete "blighted" and insert "redevelopment project".

In the conference committee report for EHB 1182, page 15, line 48, delete "blighted" and insert "redevelopment project".

In the conference committee report for EHB 1182, page 16, line 10, delete "blighted" and insert "redevelopment project".

In the conference committee report for EHB 1182, page 16, line 25, delete "portion" and insert "part".

In the conference committee report for EHB 1182, page 16, line 27, delete "blighted" and insert "redevelopment project".

In the conference committee report for EHB 1182, page 16, line 29, delete "portion" and insert "part".

In the conference committee report for EHB 1182, page 17, line 11, delete "blighted" and insert "redevelopment project".

In the conference committee report for EHB 1182, page 19, line 6, delete "IC 4-4-6.1," and insert "IC 5-28-15,".

In the conference committee report for EHB 1182, page 19, line 40, delete "portion" and insert "part".

In the conference committee report for EHB 1182, page 20, line 21, after "IC 36-7-15.1-53" insert ", AS AMENDED BY HEA 1590-2005, SECTION 46,".

In the conference committee report for EHB 1182, page 20, line 24, delete "blighted" and insert "redevelopment project".

In the conference committee report for EHB 1182, page 21, line 8, delete "blighted" and insert "redevelopment project".

In the conference committee report for EHB 1182, page 23, line 2, delete "IC 4-4-6.1," and insert "IC 5-28-15,".

(Reference is to EHB 1182 as printed April 6, 2005, and as amended by the conference committee report adopted April 28, 2005.)

WHETSTONE, Chair
PELATH, R.M.M.
LEONARD, Author

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed House Bill 1265 because it conflicts with HEA 1822-2005 without properly recognizing the existence of HEA 1822-2005, has had Engrossed House Bill 1265 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1265

be corrected as follows:

Page 1, delete line 1 through 17.

Page 2, delete lines 1 through 26, begin a new paragraph and insert:

"SECTION 1. IC 4-22-2-24, AS AMENDED BY SEA 1822-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. (a) An agency shall notify the public of its intention to adopt a rule by complying with the publication requirements in subsections (b) and (c).

(b) The agency shall cause a notice of a public hearing to be published once in one (1) newspaper of general circulation in Marion County, Indiana. To publish the newspaper notice, the agency shall directly contract with the newspaper.

(c) The agency shall cause:

- (1) a notice of public hearing;
- (2) the full text of the agency's proposed rule (excluding the full text of a matter incorporated by reference under section 21 of this chapter); and
- (3) after June 30, 2005, any statement required by IC 4-22-2.1-5;

to be published once in the Indiana Register. To publish the notice, proposed rule, and statement by IC 4-22-2.1-5 in the Indiana Register, the agency shall submit the text to the publisher. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(d) The agency shall include **the following** in the notice required by subsections (b) and (c):

(1) A statement of the date, time, and place at which the public hearing required by section 26 of this chapter will be convened.

(2) A general description of the subject matter of the proposed rule. ~~and~~

(3) In a notice published after June 30, 2005, a statement justifying any requirement or cost that is:

(A) imposed on a regulated entity under the rule; and

(B) not expressly required by:

(i) the statute authorizing the agency to adopt the rule; or

(ii) any other state or federal law.

The statement required under this subdivision must include a reference to any data, studies, or analyses relied upon by the agency in determining that the imposition of the requirement or cost is necessary.

~~(3)~~ **(4) an explanation that:**

(A) the proposed rule; and

(B) any data, studies, or analysis referenced in a statement under subdivision (3);

may be inspected and copied at the office of the agency.

However, inadequacy or insufficiency of the subject matter description **under subdivision (2) or a statement of justification under subdivision (3)** in a notice does not invalidate a rulemaking action."

(Reference is to EHB 1265 as printed April 1, 2005, and as amended by the conference committee report adopted April 28, 2005.)

WHETSTONE, Chair
PELATH, R.M.M.
POND, Author

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 298 because it conflicts with HEA 1822-2005 without properly recognizing the existence of HEA 1822-2005, has had Engrossed House Bill 298 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 298 be corrected as follows:

In the conference committee report for ESB 298, delete page 1, lines 2 through 21.

In the conference committee report for ESB 298, delete page 2,

lines 1 through 41, begin a new paragraph and insert:

"SECTION 1. IC 4-22-2-28, AS AMENDED BY HEA 1822-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. (a) **As used in this section, "total estimated economic impact" means the annual economic impact of a rule on all regulated persons after the rule is fully implemented under subsection (g).**

(~~α~~) (b) The Indiana economic development corporation established by IC 5-28-3-1:

(1) shall review a proposed rule that:

(A) imposes requirements or costs on small businesses (as defined in IC 4-22-2.1-4); and

(B) is referred to the corporation by an agency under IC 4-22-2.1-5(c); and

(2) may review a proposed rule that imposes requirements or costs on businesses other than small businesses (as defined in IC 4-22-2.1-4).

After conducting a review under subdivision (1) or (2), the corporation may suggest alternatives to reduce any regulatory burden that the proposed rule imposes on small businesses or other businesses. The agency that intends to adopt the proposed rule shall respond in writing to the Indiana economic development corporation concerning the corporation's comments or suggested alternatives before adopting the proposed rule under section 29 of this chapter.

~~(b) The~~ (c) **Subject to subsection (f) and not later than fifty (50) days before the public hearing required by section 26 of this chapter, an agency shall submit a proposed rule with an to the legislative services agency for a review under subsection (d) if the agency proposing the rule determines that the rule will have a total estimated economic impact greater than five hundred thousand dollars (\$500,000) on the all regulated entities: persons. to the legislative services agency after the preliminary adoption of the rule. In determining the total estimated economic impact under this subsection, the agency shall consider any applicable information submitted by the regulated persons affected by the rule. To assist the legislative services agency in preparing the fiscal impact statement required by subsection (d), the agency shall submit, along with the proposed rule, the data used and assumptions made by the agency in determining the total estimated economic impact of the rule.**

(d) Except as provided in subsection (~~α~~), (e), before the adoption of the rule, the legislative services agency shall prepare, and not more than forty-five (45) days after receiving a proposed rule under subsection (c), the legislative services agency shall prepare, using the data and assumptions provided by the agency proposing the rule, along with any other data or information available to the legislative services agency, a fiscal **analysis impact statement** concerning the effect that compliance with the proposed rule will have on: ~~the:~~

(1) the state; and

(2) **all entities persons** regulated by the proposed rule.

The fiscal **analysis impact statement** must contain ~~an estimate of~~ the **total estimated** economic impact of the proposed rule and a determination concerning the extent to which the proposed rule creates an unfunded mandate on a state agency or political subdivision. The fiscal **analysis impact statement** is a public document. The legislative services agency shall make the fiscal **analysis impact statement** available to interested parties upon request. The agency proposing the rule shall consider the fiscal **analysis impact statement** as part of the rulemaking process and shall provide the legislative services agency with the information necessary to prepare the fiscal **analysis: impact statement**, including any economic impact statement prepared by the agency under IC 4-22-2.1-5. The legislative services agency may also receive and consider applicable information from the regulated ~~entities persons~~ affected by the rule in preparation of the fiscal **analysis: impact statement**.

~~(α)~~ (e) With respect to a proposed rule subject to IC 13-14-9:

(1) the department of environmental management shall give written notice to the legislative services agency of the proposed date of preliminary adoption of the proposed rule not less than sixty-six (66) days before that date; and

(2) the legislative services agency shall prepare the fiscal

analysis impact statement referred to in subsection (~~α~~) (d) not later than twenty-one (21) days before the proposed date of preliminary adoption of the proposed rule."

In the conference committee report for ESB 298, delete page 3, line 19 through page 4, line 16, begin a new paragraph and insert:

"SECTION 3. IC 20-19-4-8, AS ADDED BY HEA 1288-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005] Sec. 8. (a) **As used in this section, "total estimated fiscal impact" means the annual fiscal impact of a recommendation on all affected entities after the recommendation is fully implemented under subsection (e).**

(~~α~~) (b) **Subject to subsection (d), before providing a recommendation under section 7 of this chapter, the roundtable shall prepare an analysis of the total estimated fiscal impact that the recommendation will have on the state, political subdivisions, and and all private schools affected by the recommendation. In preparing an analysis under this subsection, the roundtable shall consider any applicable information submitted by entities affected by the recommendation. The analysis prepared under this subsection must be submitted with the recommendation under section 7 of this chapter.**

(~~α~~) (c) If the roundtable provides a recommendation under section 7 of this chapter and the **total estimated** fiscal impact analysis prepared under subsection (~~α~~) (b) indicates that the impact of the recommendation will be at least five hundred thousand dollars (\$500,000), the roundtable shall submit a copy of the recommendation and the fiscal **impact** analysis prepared under subsection (~~α~~) (b) to the legislative services agency for review. This recommendation must be in an electronic format under IC 5-14-6. Not more than forty-five (45) days after receiving a copy of the recommendation and fiscal impact analysis, the legislative services agency shall prepare a fiscal **analysis impact statement** concerning the effect that compliance with the recommendation will have on:

(1) the state; and

(2) **all:**

(A) political subdivisions; and

(~~α~~) (B) nonpublic schools;

affected by the proposed recommendation.

The fiscal **analysis impact statement** must contain ~~an estimate of~~ the direct **total estimated** fiscal impact of the recommendation and a determination concerning the extent to which the recommendation creates an unfunded mandate on the state, a political subdivision, or a nonpublic school affected by the proposed recommendation. The fiscal **analysis impact statement** is a public document. The legislative services agency shall make the fiscal **analysis impact statement** available to interested parties upon request. The roundtable shall provide the legislative services agency with the information necessary to prepare the fiscal **analysis: impact statement**. The legislative services agency may also receive and consider applicable information from the entities affected by the recommendation in preparation of the fiscal **analysis: impact statement**. The legislative services agency shall provide copies of its fiscal **analysis impact statement** to each of the persons described in section 7 of this chapter."

In the conference committee report for ESB 298, page 4, line 17, delete "(e) and insert "(d)".

In the conference committee report for ESB 298, page 4, line 23, delete "(f) and insert "(e)".

In the conference committee report for ESB 298, page 4, line 46, delete "IC 20-1-20.5-8," and insert "IC 20-19-4-8,".

(Reference is to ESB 298 as printed March 22, 2005, and as amended by the conference committee report adopted April 28, 2005.)

WHETSTONE, Chair
PELATH, R.M.M.
HINKLE, Sponsor

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 498 because it conflicts with HEA 1113-2005 without properly

recognizing the existence of HEA 1113-2005, has had Engrossed Senate Bill 498 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 498 be corrected as follows:

In the conference committee report for ESB 498, page 1, line 2, after "IC 34-28-5-1" insert ", AS AMENDED BY HEA 1113-2005, SECTION 24,".

In the conference committee report for ESB 498, page 2, line 4, after "(f)" insert "This subsection does not apply to an offense or violation under IC 9-24-6 involving the operation of a commercial motor vehicle.".

In the conference committee report for ESB 498, page 2, line 18, delete "court costs" and insert "a fee".

In the conference committee report for ESB 498, page 2, line 19, delete "twenty-five" and insert "seventy".

In the conference committee report for ESB 498, page 2, line 19, delete "\$25" and insert "\$70".

In the conference committee report for ESB 498, page 2, line 20, delete "and".

In the conference committee report for ESB 498, page 2, line 22, delete "brought." and insert "brought; and".

In the conference committee report for ESB 498, page 2, between lines 22 and 23, begin a new line block indented and insert:

"(6) if the deferral program is offered by the prosecuting attorney, the prosecuting attorney electronically transmits information required by the prosecuting attorneys council concerning the withheld prosecution to the prosecuting attorneys council, in a manner and format designated by the prosecuting attorneys council."

(Reference is to ESB 498 as printed April 1, 2005, and as amended by the conference committee report adopted April 29, 2005.)

WHETSTONE, Chair
PELATH, R.M.M.
HINKLE, Sponsor

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 529 because it conflicts with SEA 340-2005 without properly recognizing the existence of SEA 340-2005, has had Engrossed Senate Bill 529 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 529 be corrected as follows:

In the conference committee report for ESB 529, page 53, line 28, delete "IC 31-33-2-2.1" and insert "IC 31-33-2-2.3".

In the conference committee report for ESB 529, page 53, line 30, delete "2.1" and insert "2.3".

In the conference committee report for ESB 529, page 78, line 32, after "IC 31-34-2.5-4" insert ", AS AMENDED BY SEA 340-2005, SECTION 5,".

In the conference committee report for ESB 529, page 78, line 41, after "ad litem" insert "or a court appointed special advocate".

(Reference is to ESB 529 as reprinted April 8, 2005, and as amended by the conference committee report adopted April 29, 2005.)

WHETSTONE, Chair
PELATH, R.M.M.
BEHNING, Sponsor

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 571 because it conflicts with HEA 1250-2005 without properly recognizing the existence of HEA 1250-2005, has had Engrossed Senate Bill 571 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 571 be corrected as follows:

In the conference committee report for ESB 571, page 7, line 25, after "IC 6-2.5-4-5" insert ", AS AMENDED BY HEA 1250-2005,

SECTION 1,".

In the conference committee report for ESB 571, page 8, line 15, after "IC 36-7-30," insert "the part of".

In the conference committee report for ESB 571, page 8, line 17, delete "IC 36-7-14.5-12.5," and insert "IC 36-7-14.5-12.5 that is or formerly was a military base (as defined in IC 36-7-30-1(c)),".

In the conference committee report for ESB 571, page 8, line 46, after "IC 6-3-2-1.5" insert ", AS AMENDED BY HEA 1250-2005, SECTION 2,".

In the conference committee report for ESB 571, page 8, line 51, after "(3)" insert "the part of".

In the conference committee report for ESB 571, page 9, line 1, after "IC 36-7-14.5-12.5" delete "," and insert "that is or formerly was a military base (as defined in IC 36-7-30-1(c)),".

In the conference committee report for ESB 571, page 9, line 45, after "IC 6-3.1-11.6-2" insert ", AS AMENDED BY HEA 1250-2005, SECTION 4,".

In the conference committee report for ESB 571, page 9, line 50, after "(3)" insert "the part of".

In the conference committee report for ESB 571, page 9, line 51, after "IC 36-7-14.5-12.5" delete "," and insert "that is or formerly was a military base (as defined in IC 36-7-30-1(c)),".

(Reference is to ESB 571 as printed April 1, 2005, and as amended by the conference committee report adopted April 29, 2005.)

WHETSTONE, Chair
PELATH, R.M.M.
KOCH, Sponsor

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 590 because it conflicts with HEA 1098-2005 without properly recognizing the existence of HEA 1098-2005, has had Engrossed Senate Bill 590 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 590 be corrected as follows:

In the Conference Committee Report to ESB 590, page 10, line 17, after "IC 25-26-13-4" insert ", AS AMENDED BY HEA 1098-2005, SECTION 22,".

In the Conference Committee Report to ESB 590, page 11, between lines 1 and 2, begin a new line block indented and insert:

"(3) Establishing standards and procedures before January 1, 2006, to ensure that a pharmacist:

(A) has entered into a contract that accepts the return of expired drugs with; or

(B) is subject to a policy that accepts the return of expired drugs of;

a wholesaler, manufacturer, or agent of a wholesaler or manufacturer concerning the return by the pharmacist to the wholesaler, the manufacturer, or the agent of expired legend drugs or controlled drugs. In determining the standards and procedures, the board may not interfere with negotiated terms related to cost, expenses, or reimbursement charges contained in contracts between parties, but may consider what is a reasonable quantity of a drug to be purchased by a pharmacy. The standards and procedures do not apply to vaccines that prevent influenza, medicine used for the treatment of malignant hyperthermia, and other drugs determined by the board to not be subject to a return policy. An agent of a wholesaler or manufacturer must be appointed in writing and have policies, personnel, and facilities to handle properly returns of expired legend drugs and controlled substances."

(Reference is to ESB 590 as printed March 18, 2005, and as amended by the Conference Committee Report to ESB 590 adopted by the House on April 27, 2005, and by the Senate on April 29, 2005.)

WHETSTONE, Chair
PELATH, R.M.M.
BUDAK, Sponsor

Report adopted.

ACTION ON RULES SUSPENSIONS AND CONFERENCE COMMITTEE REPORTS

Engrossed House Bill 1666-1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1666-1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1666-1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 634: yeas 72, nays 21. Report adopted.

Representative Bauer, Budak, and Day, who had been excused, were present.

Engrossed House Bill 1001-1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11: Engrossed House Bill 1001-1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11: Engrossed House Bill 1001-1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. On the motion of Representative Whetstone the previous question was called. Roll Call 635: yeas 52, nays 46. Report adopted.

Representative Bauer was excused.

MOTIONS TO CONCUR IN SENATE AMENDMENTS

HOUSE MOTION

Mr. Speaker: I move that the House reconsider its actions whereby it dissented from the Senate amendments to Engrossed House Bill 1141 and that the House now concur in the Senate amendments to said bill.

T. BROWN

Roll Call 636: yeas 84, nays 11. Motion prevailed.

OTHER BUSINESS ON THE SPEAKER'S TABLE

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report 1 on Engrossed House Bill 1001.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report 1 on Engrossed House Bills 1142 and 1153.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report 1 on Engrossed House Bills 1365, 1407, and 1666.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report 1 on Engrossed Senate Bills 1, 218, 360, 414, 419, 536, 607, and 609 and Conference Committee Report 2 on Engrossed Senate Bill 139.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed House Bill 1001.

MARY C. MENDEL
Principal Secretary of the Senate

HOUSE MOTION

Mr. Speaker: I move that Representative Borrer be removed as author of House Bill 1097 and Representative Woodruff be substituted as author.

BORROR

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Davis be removed as coauthor of House Bill 1120.

ESPICH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three cosponsors and that Representative Thomas be added as cosponsor of Engrossed Senate Bill 444.

FRIEND

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Turner and T. Harris be added as cosponsors of Engrossed Senate Bill 496.

ESPICH

Motion prevailed.

CONFEREES AND ADVISORS APPOINTED

The Speaker announced the following changes in appointment of Representatives as conferees and advisors:

EHB 1097 Conferees: Woodruff and Mahern
replacing Borror and Crawford

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 87

Representatives Buck, Hinkle, T. Adams, Aguilera, Alderman, Austin, Avery, Ayres, Bardon, Bauer, Becker, Behning, Bischoff, Borders, Borror, Bosma, Bottorff, Bright, C. Brown, T. Brown, Budak, Buell, Burton, Cheney, Cherry, Cochran, Crawford, Crooks, Davis, Day, Denbo, Dickinson, Dobis, Dodge, Duncan, Dvorak, Espich, Foley, Friend, Frizzell, Fry, GiaQuinta, Goodin, Grubb, Gutwein, E. Harris, T. Harris, Heim, Hoffman, Hoy, Kersey, Klinker, Koch, Kromkowski, Kuzman, L. Lawson, Lehe, Leonard, J. Lutz, Mahern, Mays, McClain, Messer, Micon, Moses, Murphy, Neese, Noe, Orentlicher, Oxley, Pelath, Pflum, Pierce, Pond, Porter, Reske, Richardson, Ripley, Robertson, Ruppel, Saunders, J. Smith, V. Smith, Stevenson, Stilwell, Stutzman, Summers, Thomas, Thompson, Tincher, Torr, Turner, Ulmer, VanHaaften, Walorski, Welch, Whetstone, Wolkins, Woodruff, and Yount introduced House Concurrent Resolution 87:

A CONCURRENT RESOLUTION honoring Pope Benedict XVI.

Whereas, The recent death of Pope John Paul II required the members of the College of Cardinals to select a new pope;

Whereas, On April 19, 2005, Cardinal Joseph Ratzinger, a renowned theologian and enforcer of Catholic Church doctrine for the past two decades, was chosen to succeed his friend and close ally, Pope John Paul II;

Whereas, Cardinal Ratzinger chose the name Pope Benedict XVI and became the 265th leader of the world's largest and most powerful Christian institution;

Whereas, Cardinal Ratzinger, former Prefect of the Congregation for the Doctrine of the Faith, President of the Pontifical Biblical Commission and of the International Theological Commission, and Dean of the College of Cardinals, was born on April 16, 1927, in Marktl Am Inn, Germany, and was ordained as a priest on June 29, 1951;

Whereas, His father, a police officer, came from a traditional family of farmers from Lower Bavaria, and Cardinal Ratzinger spent his adolescent years in Traunstein;

Whereas, Cardinal Ratzinger studied philosophy and theology at the University of Munich and at the higher school in Freising, and obtained a Doctorate in Theology with a thesis entitled "The People and House of God in St. Augustine's Doctrine of the Church";

Whereas, Cardinal Ratzinger taught dogma and fundamental theology at the higher school of philosophy and theology of Freising, and was a professor of dogmatic theology and of the history of dogma at the University of Regensburg and vice president of the same university;

Whereas, At Vatican Council II, Cardinal Ratzinger became a consultant to Cardinal Joseph Frings, archbishop of Cologne, and in March 1977, Pope Paul VI appointed him Archbishop of Munich and Freising, the first diocesan priest in 80 years to take over the pastoral ministry of this large Bavarian diocese;

Whereas, Elected vice dean of the College of Cardinals on November 6, 1998, the Holy Father approved Cardinal Ratzinger's election, by the order of cardinal bishops, as dean of the College of Cardinals on November 30, 2002; and

Whereas, Pope Benedict XVI will be a strong leader who will guide the faithful with a loving and gentle hand: Therefore,

*Be it resolved by the House of Representatives
of the General Assembly of the State of Indiana,
the Senate concurring:*

SECTION 1. That the Indiana General Assembly is grateful for the guidance and wisdom that Pope Benedict XVI will provide to the

faithful throughout the world.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to the Most Holy Father His Holiness Pope Benedict XVI.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsor: Senator Drozda.

ENROLLED ACTS SIGNED

The Speaker announced that he had signed House Enrolled Acts 1004, 1039, 1063, 1080, 1159, 1200, 1250, 1262, 1335, 1403, 1488, 1553, 1590, 1611, 1776, and 1822 and Senate Enrolled Acts 54, 67, 89, 217, 224, 233, 295, 304, 329, 363, 378, 379, 433, 481, 509, 564, 598, and 626 on April 29.

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Turner.

Representatives Budak, Buell, Espich, Friend, and VanHaaften and members of the Committee on Rules and Legislative Procedures, Representatives T. Brown, Foley, Frizzell, E. Harris, Oxley, Pelath, Stilwell, Turner, and Whetstone, were excused.

ACTION ON RULES SUSPENSIONS AND CONFERENCE COMMITTEE REPORTS

Engrossed Senate Bill 414-1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 414-1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 414-1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 637: yeas 74, nays 2. Report adopted.

Representatives Lehe and Stutzman were excused.

Engrossed Senate Bill 607-1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 607-1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 607-1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 638: yeas 78, nays 1. Report adopted.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT

ESB 508-1; filed April 29, 2005, at 3:11 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 508 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 22-3-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Every employer and every employee, except as stated in IC 22-3-2 through IC 22-3-6, shall comply with the provisions of IC 22-3-2 through IC 22-3-6 respectively to pay and accept compensation for personal injury or death by accident arising out of and in the course of the employment, and shall be bound thereby.

(b) IC 22-3-2 through IC 22-3-6 does not apply to railroad employees engaged in train service as:

- (1) engineers;
- (2) firemen;
- (3) conductors;
- (4) brakemen;
- (5) flagmen;
- (6) baggagemen; or
- (7) foremen in charge of yard engines and helpers assigned thereto.

(c) IC 22-3-2 through IC 22-3-6 does not apply to employees of municipal corporations in Indiana who are members of:

- (1) the fire department or police department of any such municipality; and
- (2) a firefighters' pension fund or of a police officers' pension fund.

However, if the common council elects to purchase and procure worker's compensation insurance to insure said employees with respect to medical benefits under IC 22-3-2 through IC 22-3-6, the medical provisions of IC 22-3-2 through IC 22-3-6 apply to members of the fire department or police department of any such municipal corporation who are also members of a firefighters' pension fund or a police officers' pension fund.

(d) IC 22-3-2 through IC 22-3-6 do not apply to the following:

- (1) **A person who enters into an independent contractor agreement with a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to perform youth coaching services on a part-time basis.**
- (2) **A nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.**

(~~(d)~~) (e) When any municipal corporation purchases or procures worker's compensation insurance covering members of the fire department or police department who are also members of a

firefighters' pension fund or a police officers' pension fund, and pays the premium or premiums for such insurance, the payment of such premiums is a legal and allowable expenditure of funds of any municipal corporation.

(~~(c)~~) (f) Except as provided in ~~subsection (f)~~, **subsection (g)**, where the common council has procured worker's compensation insurance under this section, any member of such fire department or police department employed in the city carrying such worker's compensation insurance under this section is limited to recovery of medical and surgical care, medicines, laboratory, curative and palliative agents and means, x-ray, diagnostic and therapeutic services to the extent that such services are provided for in the worker's compensation policy procured by such city, and shall not also recover in addition to that policy for such same benefits provided in IC 36-8-4.

(~~(f)~~) (g) If the medical benefits provided under a worker's compensation policy procured by the common council terminate for any reason before the police officer or firefighter is fully recovered, the common council shall provide medical benefits that are necessary until the police officer or firefighter is no longer in need of medical care.

(~~(g)~~) (h) The provisions of IC 22-3-2 through IC 22-3-6 apply to:

- (1) members of the Indiana general assembly; and
- (2) field examiners of the state board of accounts.

SECTION 2. IC 22-3-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) IC 22-3-2 through IC 22-3-6 shall not apply to:

- (1) casual laborers (as defined in IC 22-3-6-1); ~~not to~~
- (2) farm or agricultural employees; ~~not to~~
- (3) household employees; ~~not to or~~
- (4) **a person who enters into an independent contractor agreement with a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to perform youth coaching services on a part-time basis.**

IC 22-3-2 through IC 22-3-6 do not apply to the employers or contractors of such the persons listed in this subsection.

(b) An employer who is exempt under this section from the operation of the compensation provisions of this chapter may at any time waive such exemption and thereby accept the provisions of this chapter by giving notice as provided in subsection (c).

(c) The notice of acceptance referred to in subsection (b) shall be given thirty (30) days prior to any accident resulting in injury or death, provided that if any such injury occurred less than thirty (30) days after the date of employment, notice of acceptance given at the time of employment shall be sufficient notice thereof. The notice shall be in writing or print in a substantial form prescribed by the worker's compensation board and shall be given by the employer by posting the same in a conspicuous place in the plant, shop, office, room, or place where the employee is employed, or by serving it personally upon ~~him~~; **the employee**; and shall be given by the employee by sending the same in registered letter addressed to the employer at ~~his~~ **the employer's** last known residence or place of business, or by giving it personally to the employer, or any of ~~his~~ **the employer's** agents upon whom a summons in civil actions may be served under the laws of the state.

(d) A copy of the notice in prescribed form shall also be filed with the worker's compensation board, within five (5) days after its service in such manner upon the employee or employer.

SECTION 3. IC 22-3-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) As used in this section, "person" does not include:

- (1) an owner who contracts for performance of work on the owner's owner occupied residential property; or
- (2) **a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.**

(b) The state, any political division thereof, any municipal corporation, any corporation, limited liability company, partnership, or person, contracting for the performance of any work exceeding one thousand dollars (\$1,000) in value by a contractor subject to the

compensation provisions of IC 22-3-2 through IC 22-3-6, without exacting from such contractor a certificate from the worker's compensation board showing that such contractor has complied with section 5 of this chapter, IC 22-3-5-1, and IC 22-3-5-2, shall be liable to the same extent as the contractor for compensation, physician's fees, hospital fees, nurse's charges, and burial expenses on account of the injury or death of any employee of such contractor, due to an accident arising out of and in the course of the performance of the work covered by such contract.

(c) Any contractor who shall sublet any contract for the performance of any work, to a subcontractor subject to the compensation provisions of IC 22-3-2 through IC 22-3-6, without obtaining a certificate from the worker's compensation board showing that such subcontractor has complied with section 5 of this chapter, IC 22-3-5-1, and IC 22-3-5-2, shall be liable to the same extent as such subcontractor for the payment of compensation, physician's fees, hospital fees, nurse's charges, and burial expenses on account of the injury or death of any employee of such subcontractor due to an accident arising out of and in the course of the performance of the work covered by such subcontract.

(d) The state, any political division thereof, any municipal corporation, any corporation, limited liability company, partnership, person, or contractor paying compensation, physician's fees, hospital fees, nurse's charges, or burial expenses under this section may recover the amount paid or to be paid from any person who, independently of such provisions, would have been liable for the payment thereof and may, in addition, recover the litigation expenses and attorney's fees incurred in the action before the worker's compensation board as well as the litigation expenses and attorney's fees incurred in an action to collect the compensation, medical expenses, and burial expenses.

(e) Every claim filed with the worker's compensation board under this section shall be instituted against all parties liable for payment. The worker's compensation board, in an award under subsection (b), shall fix the order in which said parties shall be exhausted, beginning with the immediate employer, and, in an award under subsection (c), shall determine whether the subcontractor has the financial ability to pay the compensation and medical expenses when due and, if not, shall order the contractor to pay the compensation and medical expenses.

SECTION 4. IC 22-3-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. In all cases of the death of an employee from an injury by an accident arising out of and in the course of the employee's employment under such circumstances that the employee would have been entitled to compensation if death had not resulted, the employer shall pay the burial expenses of such employee, not exceeding ~~six~~ **seven** thousand **five** hundred dollars ~~(\$6,000)~~ **(\$7,500)**.

SECTION 5. IC 22-3-6-1, AS AMENDED BY HEA1288-2005, SECTION 182, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. In IC 22-3-2 through IC 22-3-6, unless the context otherwise requires:

(a) "Employer" includes the state and any political subdivision, any municipal corporation within the state, any individual or the legal representative of a deceased individual, firm, association, limited liability company, or corporation or the receiver or trustee of the same, using the services of another for pay. A parent corporation and its subsidiaries shall each be considered joint employers of the corporation's, the parent's, or the subsidiaries' employees for purposes of IC 22-3-2-6 and IC 22-3-3-31. Both a lessor and a lessee of employees shall each be considered joint employers of the employees provided by the lessor to the lessee for purposes of IC 22-3-2-6 and IC 22-3-3-31. If the employer is insured, the term includes the employer's insurer so far as applicable. However, the inclusion of an employer's insurer within this definition does not allow an employer's insurer to avoid payment for services rendered to an employee with the approval of the employer. The term also includes an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth in IC 22-3-2-2.5. **The term does not include a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement**

with a person for the performance of youth coaching services on a part-time basis.

(b) "Employee" means every person, including a minor, in the service of another, under any contract of hire or apprenticeship, written or implied, except one whose employment is both casual and not in the usual course of the trade, business, occupation, or profession of the employer.

(1) An executive officer elected or appointed and empowered in accordance with the charter and bylaws of a corporation, other than a municipal corporation or governmental subdivision or a charitable, religious, educational, or other nonprofit corporation, is an employee of the corporation under IC 22-3-2 through IC 22-3-6.

(2) An executive officer of a municipal corporation or other governmental subdivision or of a charitable, religious, educational, or other nonprofit corporation may, notwithstanding any other provision of IC 22-3-2 through IC 22-3-6, be brought within the coverage of its insurance contract by the corporation by specifically including the executive officer in the contract of insurance. The election to bring the executive officer within the coverage shall continue for the period the contract of insurance is in effect, and during this period, the executive officers thus brought within the coverage of the insurance contract are employees of the corporation under IC 22-3-2 through IC 22-3-6.

(3) Any reference to an employee who has been injured, when the employee is dead, also includes the employee's legal representatives, dependents, and other persons to whom compensation may be payable.

(4) An owner of a sole proprietorship may elect to include the owner as an employee under IC 22-3-2 through IC 22-3-6 if the owner is actually engaged in the proprietorship business. If the owner makes this election, the owner must serve upon the owner's insurance carrier and upon the board written notice of the election. No owner of a sole proprietorship may be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received. If the owner of a sole proprietorship is an independent contractor in the construction trades and does not make the election provided under this subdivision, the owner must obtain an affidavit of exemption under IC 22-3-2-14.5.

(5) A partner in a partnership may elect to include the partner as an employee under IC 22-3-2 through IC 22-3-6 if the partner is actually engaged in the partnership business. If a partner makes this election, the partner must serve upon the partner's insurance carrier and upon the board written notice of the election. No partner may be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received. If a partner in a partnership is an independent contractor in the construction trades and does not make the election provided under this subdivision, the partner must obtain an affidavit of exemption under IC 22-3-2-14.5.

(6) Real estate professionals are not employees under IC 22-3-2 through IC 22-3-6 if:

- (A) they are licensed real estate agents;
- (B) substantially all their remuneration is directly related to sales volume and not the number of hours worked; and
- (C) they have written agreements with real estate brokers stating that they are not to be treated as employees for tax purposes.

(7) A person is an independent contractor in the construction trades and not an employee under IC 22-3-2 through IC 22-3-6 if the person is an independent contractor under the guidelines of the United States Internal Revenue Service.

(8) An owner-operator that provides a motor vehicle and the services of a driver under a written contract that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 1057, to a motor carrier is not an employee of the motor carrier for purposes of IC 22-3-2 through IC 22-3-6. The owner-operator may elect to be covered and have the owner-operator's drivers covered under a worker's compensation insurance policy or authorized self-insurance that insures the motor carrier if the owner-operator pays the premiums as requested by the motor

carrier. An election by an owner-operator under this subdivision does not terminate the independent contractor status of the owner-operator for any purpose other than the purpose of this subdivision.

(9) A member or manager in a limited liability company may elect to include the member or manager as an employee under IC 22-3-2 through IC 22-3-6 if the member or manager is actually engaged in the limited liability company business. If a member or manager makes this election, the member or manager must serve upon the member's or manager's insurance carrier and upon the board written notice of the election. A member or manager may not be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received.

(10) An unpaid participant under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the extent set forth in IC 22-3-2-2.5.

(11) A person who enters into an independent contractor agreement with a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to perform youth coaching services on a part-time basis is not an employee for purposes of IC 22-3-2 through IC 22-3-6.

(c) "Minor" means an individual who has not reached seventeen (17) years of age.

(1) Unless otherwise provided in this subsection, a minor employee shall be considered as being of full age for all purposes of IC 22-3-2 through IC 22-3-6.

(2) If the employee is a minor who, at the time of the accident, is employed, required, suffered, or permitted to work in violation of IC 20-33-3-35, the amount of compensation and death benefits, as provided in IC 22-3-2 through IC 22-3-6, shall be double the amount which would otherwise be recoverable. The insurance carrier shall be liable on its policy for one-half (½) of the compensation or benefits that may be payable on account of the injury or death of the minor, and the employer shall be liable for the other one-half (½) of the compensation or benefits. If the employee is a minor who is not less than sixteen (16) years of age and who has not reached seventeen (17) years of age and who at the time of the accident is employed, suffered, or permitted to work at any occupation which is not prohibited by law, this subdivision does not apply.

(3) A minor employee who, at the time of the accident, is a student performing services for an employer as part of an approved program under IC 20-37-2-7 shall be considered a full-time employee for the purpose of computing compensation for permanent impairment under IC 22-3-3-10. The average weekly wages for such a student shall be calculated as provided in subsection (d)(4).

(4) The rights and remedies granted in this subsection to a minor under IC 22-3-2 through IC 22-3-6 on account of personal injury or death by accident shall exclude all rights and remedies of the minor, the minor's parents, or the minor's personal representatives, dependents, or next of kin at common law, statutory or otherwise, on account of the injury or death. This subsection does not apply to minors who have reached seventeen (17) years of age.

(d) "Average weekly wages" means the earnings of the injured employee in the employment in which the employee was working at the time of the injury during the period of fifty-two (52) weeks immediately preceding the date of injury, divided by fifty-two (52), except as follows:

(1) If the injured employee lost seven (7) or more calendar days during this period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts thereof remaining after the time lost has been deducted.

(2) Where the employment prior to the injury extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed, if results just and fair to both parties will be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of the employee's

employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages, as defined in this subsection, regard shall be had to the average weekly amount which during the fifty-two (52) weeks previous to the injury was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, by a person in the same grade employed in the same class of employment in the same district.

(3) Wherever allowances of any character made to an employee in lieu of wages are a specified part of the wage contract, they shall be deemed a part of ~~his~~ **the employee's** earnings.

(4) In computing the average weekly wages to be used in calculating an award for permanent impairment under IC 22-3-3-10 for a student employee in an approved training program under IC 20-37-2-7, the following formula shall be used. Calculate the product of:

(A) the student employee's hourly wage rate; multiplied by

(B) forty (40) hours.

The result obtained is the amount of the average weekly wages for the student employee.

(e) "Injury" and "personal injury" mean only injury by accident arising out of and in the course of the employment and do not include a disease in any form except as it results from the injury.

(f) "Billing review service" refers to a person or an entity that reviews a medical service provider's bills or statements for the purpose of determining pecuniary liability. The term includes an employer's worker's compensation insurance carrier if the insurance carrier performs such a review.

(g) "Billing review standard" means the data used by a billing review service to determine pecuniary liability.

(h) "Community" means a geographic service area based on zip code districts defined by the United States Postal Service according to the following groupings:

(1) The geographic service area served by zip codes with the first three (3) digits 463 and 464.

(2) The geographic service area served by zip codes with the first three (3) digits 465 and 466.

(3) The geographic service area served by zip codes with the first three (3) digits 467 and 468.

(4) The geographic service area served by zip codes with the first three (3) digits 469 and 479.

(5) The geographic service area served by zip codes with the first three (3) digits 460, 461 (except 46107), and 473.

(6) The geographic service area served by the 46107 zip code and zip codes with the first three (3) digits 462.

(7) The geographic service area served by zip codes with the first three (3) digits 470, 471, 472, 474, and 478.

(8) The geographic service area served by zip codes with the first three (3) digits 475, 476, and 477.

(i) "Medical service provider" refers to a person or an entity that provides medical services, treatment, or supplies to an employee under IC 22-3-2 through IC 22-3-6.

(j) "Pecuniary liability" means the responsibility of an employer or the employer's insurance carrier for the payment of the charges for each specific service or product for human medical treatment provided under IC 22-3-2 through IC 22-3-6 in a defined community, equal to or less than the charges made by medical service providers at the eightieth percentile in the same community for like services or products.

SECTION 6. IC 22-3-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Every employer and every employee, except as stated in this chapter, shall comply with this chapter, requiring the employer and employee to pay and accept compensation for disablement or death by occupational disease arising out of and in the course of the employment, and shall be bound thereby.

(b) This chapter does not apply to the following:

(1) A person who enters into an independent contractor agreement with a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to perform youth coaching services on a part-time basis.

(2) A nonprofit corporation that is recognized as tax exempt

under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.

~~(b)~~ (c) This chapter does not apply to employees of municipal corporations in Indiana who are members of:

(1) the fire department or police department of any such municipality; and

(2) a firefighters' pension fund or a police officers' pension fund.

However, if the common council elects to purchase and procure worker's occupational disease insurance to insure said employees with respect to medical benefits under this chapter, the medical provisions apply to members of the fire department or police department of any such municipal corporation who are also members of a firefighters' pension fund or a police officers' pension fund.

~~(c)~~ (d) When any municipal corporation purchases or procures worker's occupational disease insurance covering members of the fire department or police department who are also members of a firefighters' pension fund or a police officers' pension fund and pays the premium or premiums for the insurance, the payment of the premiums is a legal and allowable expenditure of funds of any municipal corporation.

~~(d)~~ (e) Except as provided in ~~subsection (c);~~ **subsection (f)**, where the common council has procured worker's occupational disease insurance as provided under this section, any member of the fire department or police department employed in the city carrying the worker's occupational disease insurance under this section is limited to recovery of medical and surgical care, medicines, laboratory, curative and palliative agents and means, x-ray, diagnostic and therapeutic services to the extent that the services are provided for in the worker's occupational disease policy so procured by the city, and may not also recover in addition to that policy for the same benefits provided in IC 36-8-4.

~~(e)~~ (f) If the medical benefits provided under a worker's occupational disease policy procured by the common council terminate for any reason before the police officer or firefighter is fully recovered, the common council shall provide medical benefits that are necessary until the police officer or firefighter is no longer in need of medical care.

~~(f)~~ (g) Nothing in this section affects the rights and liabilities of employees and employers had by them prior to April 1, 1963, under this chapter.

SECTION 7. IC 22-3-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) As used in this chapter, "employer" includes the state and any political subdivision, any municipal corporation within the state, any individual or the legal representative of a deceased individual, firm, association, limited liability company, or corporation or the receiver or trustee of the same, using the services of another for pay. A parent corporation and its subsidiaries shall each be considered joint employers of the corporation's, the parent's, or the subsidiaries' employees for purposes of sections 6 and 33 of this chapter. Both a lessor and a lessee of employees shall each be considered joint employers of the employees provided by the lessor to the lessee for purposes of sections 6 and 33 of this chapter. The term also includes an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth under section 2.5 of this chapter. If the employer is insured, the term includes ~~his the~~ **employer's insurer** so far as applicable. However, the inclusion of an employer's insurer within this definition does not allow an employer's insurer to avoid payment for services rendered to an employee with the approval of the employer. **The term does not include a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.**

(b) As used in this chapter, "employee" means every person, including a minor, in the service of another, under any contract of hire or apprenticeship written or implied, except one whose employment is both casual and not in the usual course of the trade, business, occupation, or profession of the employer. For purposes of this

chapter the following apply:

(1) Any reference to an employee who has suffered disablement, when the employee is dead, also includes ~~his the~~ **the employee's** legal representative, dependents, and other persons to whom compensation may be payable.

(2) An owner of a sole proprietorship may elect to include ~~himself the owner~~ as an employee under this chapter if ~~he the owner~~ is actually engaged in the proprietorship business. If the owner makes this election, ~~he the owner~~ must serve upon ~~his the owner's~~ insurance carrier and upon the board written notice of the election. No owner of a sole proprietorship may be considered an employee under this chapter unless the notice has been received. If the owner of a sole proprietorship is an independent contractor in the construction trades and does not make the election provided under this subdivision, the owner must obtain an affidavit of exemption under section 34.5 of this chapter.

(3) A partner in a partnership may elect to include ~~himself the partner~~ as an employee under this chapter if ~~he the partner~~ is actually engaged in the partnership business. If a partner makes this election, ~~he the partner~~ must serve upon ~~his the partner's~~ insurance carrier and upon the board written notice of the election. No partner may be considered an employee under this chapter until the notice has been received. If a partner in a partnership is an independent contractor in the construction trades and does not make the election provided under this subdivision, the partner must obtain an affidavit of exemption under section 34.5 of this chapter.

(4) Real estate professionals are not employees under this chapter if:

(A) they are licensed real estate agents;

(B) substantially all their remuneration is directly related to sales volume and not the number of hours worked; and

(C) they have written agreements with real estate brokers stating that they are not to be treated as employees for tax purposes.

(5) A person is an independent contractor in the construction trades and not an employee under this chapter if the person is an independent contractor under the guidelines of the United States Internal Revenue Service.

(6) An owner-operator that provides a motor vehicle and the services of a driver under a written contract that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 1057, to a motor carrier is not an employee of the motor carrier for purposes of this chapter. The owner-operator may elect to be covered and have the owner-operator's drivers covered under a worker's compensation insurance policy or authorized self-insurance that insures the motor carrier if the owner-operator pays the premiums as requested by the motor carrier. An election by an owner-operator under this subdivision does not terminate the independent contractor status of the owner-operator for any purpose other than the purpose of this subdivision.

(7) An unpaid participant under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the extent set forth under section 2.5 of this chapter.

(8) A person who enters into an independent contractor agreement with a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to perform youth coaching services on a part-time basis is not an employee for purposes of this chapter.

(c) As used in this chapter, "minor" means an individual who has not reached seventeen (17) years of age. A minor employee shall be considered as being of full age for all purposes of this chapter. However, if the employee is a minor who, at the time of the last exposure, is employed, required, suffered, or permitted to work in violation of the child labor laws of this state, the amount of compensation and death benefits, as provided in this chapter, shall be double the amount which would otherwise be recoverable. The insurance carrier shall be liable on its policy for one-half (½) of the compensation or benefits that may be payable on account of the disability or death of the minor, and the employer shall be wholly liable for the other one-half (½) of the compensation or benefits. If

the employee is a minor who is not less than sixteen (16) years of age and who has not reached seventeen (17) years of age, and who at the time of the last exposure is employed, suffered, or permitted to work at any occupation which is not prohibited by law, the provisions of this subsection prescribing double the amount otherwise recoverable do not apply. The rights and remedies granted to a minor under this chapter on account of disease shall exclude all rights and remedies of the minor, his parents, his personal representatives, dependents, or next of kin at common law, statutory or otherwise, on account of any disease.

(d) This chapter does not apply to casual laborers as defined in subsection (b), nor to farm or agricultural employees, nor to household employees, nor to railroad employees engaged in train service as engineers, firemen, conductors, brakemen, flagmen, baggagemen, or foremen in charge of yard engines and helpers assigned thereto, nor to their employers with respect to these employees. Also, this chapter does not apply to employees or their employers with respect to employments in which the laws of the United States provide for compensation or liability for injury to the health, disability, or death by reason of diseases suffered by these employees.

(e) As used in this chapter, "disablement" means the event of becoming disabled from earning full wages at the work in which the employee was engaged when last exposed to the hazards of the occupational disease by the employer from whom ~~he~~ **the employee** claims compensation or equal wages in other suitable employment, and "disability" means the state of being so incapacitated.

(f) For the purposes of this chapter, no compensation shall be payable for or on account of any occupational diseases unless disablement, as defined in subsection (e), occurs within two (2) years after the last day of the last exposure to the hazards of the disease except for the following:

(1) In all cases of occupational diseases caused by the inhalation of silica dust or coal dust, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within three (3) years after the last day of the last exposure to the hazards of the disease.

(2) In all cases of occupational disease caused by the exposure to radiation, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within two (2) years from the date on which the employee had knowledge of the nature of ~~his~~ **the employee's** occupational disease or, by exercise of reasonable diligence, should have known of the existence of such disease and its causal relationship to ~~his~~ **the employee's** employment.

(3) In all cases of occupational diseases caused by the inhalation of asbestos dust, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within three (3) years after the last day of the last exposure to the hazards of the disease if the last day of the last exposure was before July 1, 1985.

(4) In all cases of occupational disease caused by the inhalation of asbestos dust in which the last date of the last exposure occurs on or after July 1, 1985, and before July 1, 1988, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within twenty (20) years after the last day of the last exposure.

(5) In all cases of occupational disease caused by the inhalation of asbestos dust in which the last date of the last exposure occurs on or after July 1, 1988, no compensation shall be payable unless disablement (as defined in subsection (e)) occurs within thirty-five (35) years after the last day of the last exposure.

(g) For the purposes of this chapter, no compensation shall be payable for or on account of death resulting from any occupational disease unless death occurs within two (2) years after the date of disablement. However, this subsection does not bar compensation for death:

(1) where death occurs during the pendency of a claim filed by an employee within two (2) years after the date of disablement and which claim has not resulted in a decision or has resulted in a decision which is in process of review or appeal; or

(2) where, by agreement filed or decision rendered, a

compensable period of disability has been fixed and death occurs within two (2) years after the end of such fixed period, but in no event later than three hundred (300) weeks after the date of disablement.

(h) As used in this chapter, "billing review service" refers to a person or an entity that reviews a medical service provider's bills or statements for the purpose of determining pecuniary liability. The term includes an employer's worker's compensation insurance carrier if the insurance carrier performs such a review.

(i) As used in this chapter, "billing review standard" means the data used by a billing review service to determine pecuniary liability.

(j) As used in this chapter, "community" means a geographic service area based on zip code districts defined by the United States Postal Service according to the following groupings:

(1) The geographic service area served by zip codes with the first three (3) digits 463 and 464.

(2) The geographic service area served by zip codes with the first three (3) digits 465 and 466.

(3) The geographic service area served by zip codes with the first three (3) digits 467 and 468.

(4) The geographic service area served by zip codes with the first three (3) digits 469 and 479.

(5) The geographic service area served by zip codes with the first three (3) digits 460, 461 (except 46107), and 473.

(6) The geographic service area served by the 46107 zip code and zip codes with the first three (3) digits 462.

(7) The geographic service area served by zip codes with the first three (3) digits 470, 471, 472, 474, and 478.

(8) The geographic service area served by zip codes with the first three (3) digits 475, 476, and 477.

(k) As used in this chapter, "medical service provider" refers to a person or an entity that provides medical services, treatment, or supplies to an employee under this chapter.

(l) As used in this chapter, "pecuniary liability" means the responsibility of an employer or the employer's insurance carrier for the payment of the charges for each specific service or product for human medical treatment provided under this chapter in a defined community, equal to or less than the charges made by medical service providers at the eightieth percentile in the same community for like services or products.

SECTION 8. IC 22-3-7-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. In ~~all~~ **any** cases of the death of an employee from an occupational disease arising out of and in the course of the employee's employment under ~~such~~ circumstances that the employee would have been entitled to compensation if death had not resulted, the employer shall pay the burial expenses of such employee, not exceeding ~~six~~ **seven** thousand **five hundred** dollars ~~(\$6,000)~~ **(\$7,500)**.

SECTION 9. IC 22-3-7-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 34. (a) As used in this section, "person" does not include:

(1) an owner who contracts for performance of work on the owner's owner occupied residential property; or

(2) **a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.**

(b) Every employer bound by the compensation provisions of this chapter, except the state, counties, townships, cities, towns, school cities, school towns, school townships, other municipal corporations, state institutions, state boards, and state commissions, shall insure the payment of compensation to the employer's employees and their dependents in the manner provided in this chapter, or procure from the worker's compensation board a certificate authorizing the employer to carry such risk without insurance. While that insurance or certificate remains in force, the employer, or those conducting the employer's business, and the employer's occupational disease insurance carrier shall be liable to any employee and the employee's dependents for disablement or death from occupational disease arising out of and in the course of employment only to the extent and in the manner specified in this chapter.

(c) Every employer who, by election, is bound by the compensation provisions of this chapter, except those exempted from the provisions by subsection (b), shall:

- (1) insure and keep insured the employer's liability under this chapter in some corporation, association, or organization authorized to transact the business of worker's compensation insurance in this state; or
- (2) furnish to the worker's compensation board satisfactory proof of the employer's financial ability to pay the compensation in the amount and manner and when due as provided for in this chapter.

In the latter case the board may require the deposit of an acceptable security, indemnity, or bond to secure the payment of compensation liabilities as they are incurred.

(d) Every employer required to carry insurance under this section shall file with the worker's compensation board in the form prescribed by it, within ten (10) days after the termination of the employer's insurance by expiration or cancellation, evidence of the employer's compliance with subsection (c) and other provisions relating to the insurance under this chapter. The venue of all criminal actions under this section lies in the county in which the employee was last exposed to the occupational disease causing disablement. The prosecuting attorney of the county shall prosecute all violations upon written request of the board. The violations shall be prosecuted in the name of the state.

(e) Whenever an employer has complied with subsection (c) relating to self-insurance, the worker's compensation board shall issue to the employer a certificate which shall remain in force for a period fixed by the board, but the board may, upon at least thirty (30) days notice, and a hearing to the employer, revoke the certificate, upon presentation of satisfactory evidence for the revocation. After the revocation, the board may grant a new certificate to the employer upon the employer's petition, and satisfactory proof of the employer's financial ability.

(f)(1) Subject to the approval of the worker's compensation board, any employer may enter into or continue any agreement with the employer's employees to provide a system of compensation, benefit, or insurance in lieu of the compensation and insurance provided by this chapter. A substitute system may not be approved unless it confers benefits upon employees and their dependents at least equivalent to the benefits provided by this chapter. It may not be approved if it requires contributions from the employees unless it confers benefits in addition to those provided under this chapter, which are at least commensurate with such contributions.

(f)(2) The substitute system may be terminated by the worker's compensation board on reasonable notice and hearing to the interested parties, if it appears that the same is not fairly administered or if its operation shall disclose latent defects threatening its solvency, or if for any substantial reason it fails to accomplish the purpose of this chapter. On termination, the board shall determine the proper distribution of all remaining assets, if any, subject to the right of any party in interest to take an appeal to the court of appeals.

(g)(1) No insurer shall enter into or issue any policy of insurance under this chapter until its policy form has been submitted to and approved by the worker's compensation board. The board shall not approve the policy form of any insurance company until the company shall file with it the certificate of the insurance commissioner showing that the company is authorized to transact the business of worker's compensation insurance in Indiana. The filing of a policy form by any insurance company or reciprocal insurance association with the board for approval constitutes on the part of the company or association a conclusive and unqualified acceptance of each of the compensation provisions of this chapter, and an agreement by it to be bound by the compensation provisions of this chapter.

(g)(2) All policies of insurance companies and of reciprocal insurance associations, insuring the payment of compensation under this chapter, shall be conclusively presumed to cover all the employees and the entire compensation liability of the insured under this chapter in all cases in which the last day of the exposure rendering the employer liable is within the effective period of such policy.

(g)(3) Any provision in any such policy attempting to limit or modify the liability of the company or association insuring the same

shall be wholly void.

(g)(4) Every policy of any company or association shall be deemed to include the following provisions:

"(A) The insurer assumes in full all the obligations to pay physician's fees, nurse's charges, hospital supplies, burial expenses, compensation or death benefits imposed upon or accepted by the insured under this chapter.

(B) This policy is subject to the provisions of this chapter relative to the liability of the insured to pay physician's fees, nurse's charges, hospital services, hospital supplies, burial expenses, compensation or death benefits to and for such employees, the acceptance of such liability by the insured, the adjustment, trial and adjudication of claims for such physician's fees, nurse's charges, hospital services, hospital supplies, burial expenses, compensation, or death benefits.

(C) Between this insurer and the employee, notice to or knowledge of the occurrence of the disablement on the part of the insured (the employer) shall be notice or knowledge thereof, on the part of the insurer. The jurisdiction of the insured (the employer) for the purpose of this chapter is the jurisdiction of this insurer, and this insurer shall in all things be bound by and shall be subject to the awards, judgments and decrees rendered against the insured (the employer) under this chapter.

(D) This insurer will promptly pay to the person entitled to the same all benefits conferred by this chapter, including all physician's fees, nurse's charges, hospital services, hospital supplies, burial expenses, and all installments of compensation or death benefits that may be awarded or agreed upon under this chapter. The obligation of this insurer shall not be affected by any default of the insured (the employer) after disablement or by any default in giving of any notice required by this policy, or otherwise. This policy is a direct promise by this insurer to the person entitled to physician's fees, nurse's charges, fees for hospital services, charges for hospital services, charges for hospital supplies, charges for burial, compensation, or death benefits, and shall be enforceable in the name of the person.

(E) Any termination of this policy by cancellation shall not be effective as to employees of the insured covered hereby unless at least thirty (30) days prior to the taking effect of such cancellation, a written notice giving the date upon which such termination is to become effective has been received by the worker's compensation board of Indiana at its office in Indianapolis, Indiana.

(F) This policy shall automatically expire one (1) year from the effective date of the policy, unless the policy covers a period of three (3) years, in which event, it shall automatically expire three (3) years from the effective date of the policy. The termination either of a one (1) year or a three (3) year policy, is effective as to the employees of the insured covered by the policy."

(g)(5) All claims for compensation, nurse's charges, hospital services, hospital supplies, physician's fees, or burial expenses may be made directly against either the employer or the insurer or both, and the award of the worker's compensation board may be made against either the employer or the insurer or both.

(g)(6) If any insurer shall fail to pay any final award or judgment (except during the pendency of an appeal) rendered against it, or its insured, or, if it shall fail to comply with this chapter, the worker's compensation board shall revoke the approval of its policy forms, and shall not accept any further proofs of insurance from it until it shall have paid the award or judgment or complied with this chapter, and shall have resubmitted its policy form and received the approval of the policy by the industrial board.

(h) No policy of insurance covering the liability of an employer for worker's compensation shall be construed to cover the liability of the employer under this chapter for any occupational disease unless the liability is expressly accepted by the insurance carrier issuing the policy and is endorsed in that policy. The insurance or security in force to cover compensation liability under this chapter shall be separate from the insurance or security under IC 22-3-2 through IC 22-3-6. Any insurance contract covering liability under either part of this article need not cover any liability under the other.

(i) For the purpose of complying with subsection (c), groups of

employers are authorized to form mutual insurance associations or reciprocal or interinsurance exchanges subject to any reasonable conditions and restrictions fixed by the department of insurance. This subsection does not apply to mutual insurance associations and reciprocal or interinsurance exchanges formed and operating on or before January 1, 1991, which shall continue to operate subject to the provisions of this chapter and to such reasonable conditions and restrictions as may be fixed by the worker's compensation board.

(j) Membership in a mutual insurance association or a reciprocal or interinsurance exchange so proved, together with evidence of the payment of premiums due, is evidence of compliance with subsection (c).

(k) Any person bound under the compensation provisions of this chapter, contracting for the performance of any work exceeding one thousand dollars (\$1,000) in value, in which the hazard of an occupational disease exists, by a contractor subject to the compensation provisions of this chapter without exacting from the contractor a certificate from the worker's compensation board showing that the contractor has complied with subsections (b), (c), and (d), shall be liable to the same extent as the contractor for compensation, physician's fees, hospital fees, nurse's charges, and burial expenses on account of the injury or death of any employee of such contractor, due to occupational disease arising out of and in the course of the performance of the work covered by such contract.

(l) Any contractor who sublets any contract for the performance of any work to a subcontractor subject to the compensation provisions of this chapter, without obtaining a certificate from the worker's compensation board showing that the subcontractor has complied with subsections (b), (c), and (d), is liable to the same extent as the subcontractor for the payment of compensation, physician's fees, hospital fees, nurse's charges, and burial expense on account of the injury or death of any employee of the subcontractor due to occupational disease arising out of and in the course of the performance of the work covered by the subcontract.

(m) A person paying compensation, physician's fees, hospital fees, nurse's charges, or burial expenses, under subsection (k) or (l), may recover the amount paid or to be paid from any person who would otherwise have been liable for the payment thereof and may, in addition, recover the litigation expenses and attorney's fees incurred in the action before the worker's compensation board as well as the litigation expenses and attorney's fees incurred in an action to collect the compensation, medical expenses, and burial expenses.

(n) Every claim filed with the worker's compensation board under this section shall be instituted against all parties liable for payment. The worker's compensation board, in an award under subsection (k), shall fix the order in which such parties shall be exhausted, beginning with the immediate employer and, in an award under subsection (l), shall determine whether the subcontractor has the financial ability to pay the compensation and medical expenses when due and, if not, shall order the contractor to pay the compensation and medical expenses.

(Reference is to ESB 508 as reprinted April 8, 2005.)

CLARK	TORR
LEWIS	CHENEY
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT ESB 307-1; filed April 29, 2005, at 3:59 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 307 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-4-6.1-2.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.6. (a) This section applies to records and other information, including records and information that are otherwise confidential, maintained by the

following:

- (1) The board.
- (2) An urban enterprise association.
- (3) The department of state revenue.
- (4) The department of commerce.
- (5) The department of local government finance.
- (6) A county auditor.
- (7) A controller for a consolidated city.**
- ~~(7)~~ **(8) A township assessor.**

(b) A person listed in subsection (a) may request a second person described in subsection (a) to provide any records or other information maintained by the second person that concern an individual or business that is receiving a tax deduction, exemption, or credit related to an enterprise zone. Notwithstanding any other law, the person to whom the request is made under this section must comply with the request. A person receiving records or information under this section that are confidential must also keep the records or information confidential.

(c) A person who receives confidential records or information under this section and knowingly or intentionally discloses the records or information to an unauthorized person commits a Class A misdemeanor.

SECTION 2. IC 5-2-1-9, AS AMENDED BY P.L.62-2004, SECTION 1, AND AS AMENDED BY P.L.85-2004, SECTION 40, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. Such rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

- (1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.
- (2) Minimum standards for law enforcement training schools administered by towns, cities, counties, the northwest Indiana law enforcement training center, agencies, or departments of the state.
- (3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.
- (4) Minimum standards for a course of study on cultural diversity awareness that must be required for each person accepted for training at a law enforcement training school or academy.
- (5) Minimum qualifications for instructors at approved law enforcement training schools.
- (6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.
- (7) Minimum basic training requirements which law enforcement officers not appointed for probationary terms but appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.
- (8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.
- (9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the law enforcement training board.*

(b) Except as provided in subsection (l), a law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training

requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which in such cases shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e) and (l), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

- (1) make an arrest;
- (2) conduct a search or a seizure of a person or property; or
- (3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy, *at the southwest Indiana law enforcement training academy under section 10.5 of this chapter*, or at the northwest Indiana law enforcement training center under section 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

- (1) law enforcement officers;
- (2) police reserve officers (as described in IC 36-8-3-20); and
- (3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, use of force, and firearm qualification. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of forty (40) hours of course work. The board may prepare a pre-basic course on videotape that must be used in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including colleges and universities.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed the basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes a minimum of sixteen (16) hours each year of inservice training in any subject area included in the law enforcement academy's basic training course or other job related subjects that are approved by the board as determined by the law enforcement department's or agency's needs. *Inservice training must include training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the law enforcement training board.* In addition, a certified academy staff may develop and make available inservice training programs on a regional or local basis. The board may approve courses offered by other public or private training entities, including colleges and universities, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to any of the following:

- (1) An emergency situation.

(2) The unavailability of courses.

(h) The board shall also adopt rules establishing a town marshal basic training program, subject to the following:

(1) The program must require fewer hours of instruction and class attendance and fewer courses of study than are required for the mandated basic training program.

(2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.

(3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having ~~no~~ **not** more than one (1) marshal and two (2) deputies.

(4) The limitation imposed by subdivision (3) does not apply to an officer who has successfully completed the mandated basic training program.

(5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal basic training program.

(i) The board shall adopt rules under IC 4-22-2 to establish a police chief executive training program. The program must include training in the following areas:

- (1) Liability.
- (2) Media relations.
- (3) Accounting and administration.
- (4) Discipline.
- (5) Department policy making.
- (6) Firearm policies.
- (7) Department programs.

(j) A police chief shall apply for admission to the police chief executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the police chief executive training program within six (6) months of the date the police chief initially takes office. However, if space in the program is not available at a time that will allow the police chief to complete the program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available program that is offered to the police chief after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not serve as the police chief until the police chief has completed the police chief executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

- (1) the police chief of any city; ~~and~~
- (2) the police chief of any town having a metropolitan police department; ~~and~~
- (3) the chief of a consolidated law enforcement department established under IC 36-3-1-5.1.**

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the police chief executive training program.

(l) An investigator in the arson division of the office of the state fire marshal appointed:

- (1) before January 1, 1994, is not required; or
- (2) after December 31, 1993, is required;

to comply with the basic training standards established under this section.

(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

SECTION 3. IC 5-10-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. As used in this chapter, "public safety officer" means any of the following:

- (1) A state police officer.
- (2) A county sheriff.
- (3) A county police officer.
- (4) A correctional officer.
- (5) An excise police officer.
- (6) A county police reserve officer.
- (7) A city police reserve officer.
- (8) A conservation enforcement officer.

- (9) A town marshal.
- (10) A deputy town marshal.
- (11) A probation officer.
- (12) A state university police officer appointed under IC 20-12-3.5.
- (13) An emergency medical services provider (as defined in IC 16-41-10-1) who is:
 - (A) employed by a political subdivision (as defined in IC 36-1-2-13); and
 - (B) not eligible for a special death benefit under IC 36-8-6-20, IC 36-8-7-26, IC 36-8-7.5-22, or IC 36-8-8-20.
- (14) A firefighter who is employed by the fire department of a state university.
- (15) A member of a consolidated law enforcement department established under IC 36-3-1-5.1.**

SECTION 4. IC 5-10-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "employee" means an individual who:

- (1) is employed full time by the state or a political subdivision of the state as:
 - (A) a member of a fire department (as defined in IC 36-8-1-8);
 - (B) an emergency medical services provider (as defined in IC 16-41-10-1);
 - (C) a member of a police department (as defined in IC 36-8-1-9);
 - (D) a correctional officer (as defined in IC 5-10-10-1.5);
 - (E) a state police officer;
 - (F) a county police officer;
 - (G) a county sheriff;
 - (H) an excise police officer;
 - (I) a conservation enforcement officer;
 - (J) a town marshal; ~~or~~
 - (K) a deputy town marshal; ~~or~~
 - (L) a member of a consolidated law enforcement department established under IC 36-3-1-5.1;**
- (2) in the course of the individual's employment is at high risk for occupational exposure to an exposure risk disease; and
- (3) is not employed elsewhere in a similar capacity.

SECTION 5. IC 6-1.1-17-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. (a) This section applies:

- (1) to each governing body of a taxing unit that is not comprised of a majority of officials who are elected to serve on the governing body; and
- (2) if the proposed property tax levy for the taxing unit for the ensuing calendar year is more than five percent (5%) greater than the property tax levy for the taxing unit for the current calendar year.
- (b) As used in this section, "taxing unit" has the meaning set forth in IC 6-1.1-1-21, except that the term does not include:
 - (1) a school corporation; or**
 - (2) an entity whose tax levies are subject to review and modification by a city-county legislative body under IC 36-3-6-9.**

(c) If:

- (1) the assessed valuation of a taxing unit is entirely contained within a city or town; or
 - (2) the assessed valuation of a taxing unit is not entirely contained within a city or town but the taxing unit was originally established by the city or town;
- the governing body shall submit its proposed budget and property tax levy to the city or town fiscal body. The proposed budget and levy shall be submitted at least fourteen (14) days before the city or town fiscal body is required to hold budget approval hearings under this chapter.

(d) If subsection (c) does not apply, the governing body of the taxing unit shall submit its proposed budget and property tax levy to the county fiscal body in the county where the taxing unit has the most assessed valuation. The proposed budget and levy shall be submitted at least fourteen (14) days before the county fiscal body is required to hold budget approval hearings under this chapter.

(e) The fiscal body of the city, town, or county (whichever applies) shall review each budget and proposed tax levy and adopt a final budget and tax levy for the taxing unit. The fiscal body may reduce or modify but not increase the proposed budget or tax levy.

SECTION 6. IC 6-1.1-17-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 21. Notwithstanding any other law, in a county having a consolidated city, the city controller of the consolidated city has all the powers and shall perform all the duties assigned to county auditors under this chapter related to the fixing and reviewing of budgets, tax rates, and tax levies.**

SECTION 7. IC 8-22-3-11.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11.6. (a) This section applies only to an airport authority established for a county having a consolidated city.**

(b) The legislative body of the consolidated city and the governing body of the airport authority may adopt substantially similar ordinances providing that the fire department of the airport authority is consolidated into the fire department of the consolidated city, and that the fire department of the consolidated city shall provide fire protection services for the airport authority. If ordinances are adopted under this section, the consolidation shall take effect on the date agreed to by the legislative body of the consolidated city and the governing body of the airport authority in the ordinances.

(c) The legislative body of the consolidated city and the governing body of the airport authority may adopt substantially similar ordinances providing that the law enforcement services of the airport authority are consolidated into the consolidated law enforcement department of the consolidated city, and that the law enforcement department of the consolidated city shall provide law enforcement services for the airport authority. If ordinances are adopted under this section, the consolidation shall take effect on the date agreed to by the legislative body of the consolidated city and the governing body of the airport authority in the ordinances.

SECTION 8. IC 9-13-2-92 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 92. (a) "Law enforcement officer", except as provided in subsection (b), includes the following:

- (1) A state police officer.
- (2) A city, town, or county police officer.
- (3) A sheriff.
- (4) A county coroner.
- (5) A conservation officer.
- (6) A member of a consolidated law enforcement department established under IC 36-3-1-5.1.**

(b) "Law enforcement officer", for purposes of IC 9-30-5, IC 9-30-6, IC 9-30-7, IC 9-30-8, and IC 9-30-9, has the meaning set forth in IC 35-41-1.

SECTION 9. IC 10-14-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) For purposes of this section, "member of the military or public safety officer" means an individual who is:

- (1) a member of a fire department (as defined in IC 36-8-1-8);
- (2) an emergency medical service provider (as defined in IC 16-41-10-1);
- (3) a member of a police department (as defined in IC 36-8-1-9);
- (4) a correctional officer (as defined in IC 5-10-10-1.5);
- (5) a state police officer;
- (6) a county police officer;
- (7) a police reserve officer;
- (8) a county sheriff;
- (9) a deputy sheriff;
- (10) an excise police officer;
- (11) a conservation enforcement officer;
- (12) a town marshal;
- (13) a deputy town marshal;
- (14) a university police officer appointed under IC 20-12-3.5;
- (15) a probation officer;
- (16) a paramedic;

- (17) a volunteer firefighter (as defined in IC 36-8-12-2);
- (18) an emergency medical technician or a paramedic working in a volunteer capacity;
- (19) a member of the armed forces of the United States;
- (20) a member of the Indiana Air National Guard; ~~or~~
- (21) a member of the Indiana Army National Guard; ~~or~~
- (22) a member of a consolidated law enforcement department established under IC 36-3-1-5.1.**

(b) For purposes of this section, "dies in the line of duty" refers to a death that occurs as a direct result of personal injury or illness resulting from any action that a member of the military or public safety officer, in the member of the military's or public safety officer's official capacity, is obligated or authorized by rule, regulation, condition of employment or services, or law to perform in the course of performing the member of the military's or public safety officer's duty.

(c) If a member of the military or public safety officer dies in the line of duty, a state flag shall be presented to:

- (1) the surviving spouse;
- (2) the surviving children if there is no surviving spouse; or
- (3) the surviving parent or parents if there is no surviving spouse and there are no surviving children.

(d) The state emergency management agency shall administer this section and may adopt rules under IC 4-22-2 to implement this section.

SECTION 10. IC 33-24-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a) Except as provided in subsection (b), the sheriff of the supreme court or a county police officer shall:**

- (1) attend the court in term time;
- (2) execute the orders of the court;
- (3) preserve order within the court; and
- (4) execute all process issued out of the court.
- (3) execute all civil process issued out of the court.**

(b) This subsection applies only if a consolidated law enforcement department is established under IC 36-3-1-5.1. The ordinance adopted by the legislative body of the consolidated city shall determine whether:

- (1) the orders of the court; and**
- (2) all criminal process issued out of the court;**

shall be executed by an officer of the sheriff's department or an officer of the consolidated law enforcement department.

SECTION 11. IC 35-47-4.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter, "public safety officer" means:

- (1) a state police officer;
- (2) a county sheriff;
- (3) a county police officer;
- (4) a correctional officer;
- (5) an excise police officer;
- (6) a county police reserve officer;
- (7) a city police officer;
- (8) a city police reserve officer;
- (9) a conservation enforcement officer;
- (10) a town marshal;
- (11) a deputy town marshal;
- (12) a state university police officer appointed under IC 20-12-3.5;
- (13) a probation officer;
- (14) a firefighter (as defined in IC 9-18-34-1);
- (15) an emergency medical technician; ~~or~~
- (16) a paramedic; ~~or~~
- (17) a member of a consolidated law enforcement department established under IC 36-3-1-5.1.**

SECTION 12. IC 36-1-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. "Fiscal officer" means:

- (1) auditor, for a county **not having a consolidated city**;
- (2) controller, for a:
 - (A) consolidated city;**
 - (B) county having a consolidated city, except as otherwise provided; or**
 - (C) second class city;**

- (3) clerk-treasurer, for a third class city;
- (4) clerk-treasurer, for a town; or
- (5) trustee, for a township.

SECTION 13. IC 36-2-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. This chapter applies to all counties **except a county having a consolidated city.**

SECTION 14. IC 36-2-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. ~~(a) This section does not apply to a county having a consolidated city.~~

~~(b) (a)~~ The auditor shall perform the duties of clerk of the county executive under IC 36-2-2-11.

~~(c) (b)~~ If the auditor cannot perform the duties of clerk during a meeting of the county executive, and ~~he~~ **the auditor** does not have a deputy or ~~his~~ **the auditor's** deputy cannot attend the meeting, the executive may deputize a person to perform those duties during the meeting.

SECTION 15. IC 36-2-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. ~~(a) This section does not apply to a county having a consolidated city.~~

~~(b)~~ The auditor shall perform the duties of clerk of the county fiscal body under IC 36-2-3-6(b).

SECTION 16. IC 36-2-9.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 9.5. County Auditor of Marion County

Sec. 1. This chapter applies to a county having a consolidated city.

Sec. 2. (a) The county auditor must reside within the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The auditor forfeits office if the auditor ceases to be a resident of the county.

(b) The term of office of the county auditor under Article 6, Section 2 of the Constitution of the State of Indiana is four (4) years and continues until a successor is elected and qualified.

Sec. 3. The county auditor shall keep an office in a building provided at the county seat by the county executive. The auditor shall keep the office open for business during regular business hours on every day of the year except:

- (1) Sundays;**
- (2) legal holidays; and**
- (3) days specified by the county executive according to the custom and practice of the county.**

Sec. 4. A legal action required to be taken in the county auditor's office on a day when the auditor's office is closed under section 3 of this chapter may be taken on the next day the office is open.

Sec. 5. The county auditor shall furnish standard forms for use in the transaction of business under this article and for use in the performance of services for which the auditor receives a specific fee.

Sec. 6. The county auditor may administer the following:

- (1) An oath necessary in the performance of the auditor's duties.**
- (2) The oath of office to an officer who receives the officer's certificate of appointment or election from the auditor.**
- (3) An oath relating to the duty of an officer who receives the officer's certificate of appointment or election from the auditor.**
- (4) The oath of office to a member of the board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal).**

Sec. 7. (a) The county auditor shall:

- (1) keep a separate account for each item of appropriation made by the legislative body of the consolidated city; and**
- (2) in each warrant the county auditor draws on the county or city treasury, specifically indicate the item of appropriation the warrant is drawn against.**

(b) The county auditor may not permit an item of appropriation to be:

- (1) overdrawn; or**
- (2) drawn on for a purpose other than the specific purpose for which the appropriation was made.**

(c) A county auditor who knowingly violates this section

commits a Class A misdemeanor.

Sec. 8. The county auditor shall keep an accurate account current with the county treasurer. When a receipt given by the treasurer for money paid into the county or city treasury is deposited with the county auditor, the county auditor shall:

- (1) file the treasurer's receipt;
- (2) charge the treasurer with the amount of the treasurer's receipt; and
- (3) issue the county auditor's receipt to the person presenting the treasurer's receipt.

Sec. 9. (a) This section does not apply to:

- (1) funds received from the state or the federal government for:

- (A) township assistance;
- (B) unemployment relief; or
- (C) old age pensions; or

- (2) other funds available under:

- (A) the federal Social Security Act; or
- (B) another federal statute providing for civil and public works projects.

(b) Except for money that by statute is due and payable from the county or city treasury to:

- (1) the state; or
- (2) a township or municipality in the county;

money may be paid from the county or city treasury only upon a warrant drawn by the county auditor.

(c) A warrant may be drawn on the county or city treasury only if:

- (1) the legislative body of the consolidated city made an appropriation of the money for the calendar year in which the warrant is drawn; and
- (2) the appropriation is not exhausted.

(d) Notwithstanding subsection (c), an appropriation by the legislative body is not necessary to authorize the drawing of a warrant on and payment from the county or city treasury for:

- (1) money that:
 - (A) belongs to the state; and
 - (B) is required by statute to be paid into the state treasury;

- (2) money that belongs to a school fund, whether principal or interest;

- (3) money that:

- (A) belongs to a township or municipality in the county; and
- (B) is required by statute to be paid to the township or municipality;

- (4) money that:

- (A) is due a person;
- (B) is paid into the county or city treasury under an assessment on persons or property of the county in territory less than that of the whole county; and
- (C) is paid for construction, maintenance, or purchase of a public improvement;

- (5) money that is due a person and is paid into the county treasury to redeem property from a tax sale or other forced sale;

- (6) money that is due a person and is paid to the county or city under law as a tender or payment to the person;

- (7) taxes erroneously paid;

- (8) money paid to a cemetery board under IC 23-14-65-22;

- (9) money distributed under IC 23-14-70-3; or

- (10) payments under a statute that expressly provides for payments from the county or city treasury without appropriation by the legislative body.

(e) A county auditor who knowingly violates this section commits a Class A misdemeanor.

Sec. 10. (a) The county auditor shall examine and settle all accounts and demands that are:

- (1) chargeable against the county or city; and
- (2) not otherwise provided for by statute.

(b) The county auditor shall issue warrants on the county or city treasury for:

- (1) sums of money settled and allowed by the county auditor;

- (2) sums of money settled and allowed by another official; or

- (3) settlements and allowances fixed by statute;

and shall make the warrants payable to the person entitled to payment. The warrants shall be numbered progressively, and the controller shall record the number, date, amount, payee, and purpose of issue of each warrant at the time of issuance.

Sec. 11. Whenever:

- (1) a judgment or an order is issued by a court in a case in which the county was a party and was served with process for the payment of a claim;

- (2) a certified copy of the judgment or order is filed with the auditor; and

- (3) the claim is allowed by the county executive; the auditor shall issue his warrant for the claim.

Sec. 12. (a) At the semiannual settlement under IC 6-1.1-27, the auditor shall issue calls for the redemption of outstanding county warrants if there is any money available in the county treasury for redemption of those warrants.

(b) A warrant included in a call under this section ceases to bear interest upon the date of the call. The county treasurer shall redeem warrants included in the call when they are presented to the county treasurer.

(c) An auditor who violates this section is liable for the interest on all money used for redemption.

Sec. 13. (a) The county auditor is responsible for the issuance of warrants for payments from county and city funds.

(b) The county auditor is responsible for:

- (1) accounting;
- (2) payroll, accounts payable, and accounts receivable;
- (3) revenue and tax distributions; and
- (4) maintenance of property records;

for all city and county departments, offices, and agencies.

Sec. 14. The county auditor has all the powers and duties assigned to county auditors under IC 6-1.1, except for the powers and duties related to the fixing and reviewing of budgets, tax rates, and tax levies.

Sec. 15. The county auditor does not have powers and duties concerning the fixing and reviewing of budgets, tax rates, and tax levies.

Sec. 16. The county auditor has the powers and duties set forth in IC 36-2-9-18 and IC 36-2-9-20.

Sec. 17. If a county auditor is held personally liable for penalties and interest assessed by the Internal Revenue Service, the county treasurer shall reimburse the county auditor in an amount equal to the penalties and interest. However, the county treasurer may not reimburse the county auditor if the county auditor willfully or intentionally failed or refused to file a return or make a required deposit on the date the return or deposit was due.

SECTION 17. IC 36-3-1-5.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE] Sec. 5.1. (a) Except for those duties that are reserved by law to the county sheriff in this section, the city-county legislative body may by majority vote adopt an ordinance, approved by the mayor, to consolidate the police department of the consolidated city and the county sheriff's department.

(b) The city-county legislative body may not adopt an ordinance under this section unless it first:

- (1) holds a public hearing on the proposed consolidation; and

- (2) determines that:

- (A) reasonable and adequate police protection can be provided through the consolidation; and
- (B) the consolidation is in the public interest.

(c) If an ordinance is adopted under this section, the consolidation shall take effect on the date specified in the ordinance.

(d) Notwithstanding any other law, an ordinance adopted under this section must provide that the county sheriff's department shall be responsible for all the following for the consolidated city and the county under the direction and control of the sheriff:

- (1) County jail operations and facilities.
 - (2) Emergency communications.
 - (3) Security for buildings and property owned by:
 - (A) the consolidated city;
 - (B) the county; or
 - (C) both the consolidated city and county.
 - (4) Service of civil process and collection of taxes under tax warrants.
 - (5) Sex offender registration.
- (e) The following apply if an ordinance is adopted under this section:
- (1) The department of local government finance, on recommendation from the local government tax control board, shall adjust the maximum permissible ad valorem property tax levy of the consolidated city and the county for property taxes first due and payable in the year a consolidation takes effect under this section. When added together, the adjustments under this subdivision must total zero (0).
 - (2) The ordinance must specify which law enforcement officers of the police department and which law enforcement officers of the county sheriff's department shall be law enforcement officers of the consolidated law enforcement department.
 - (3) The ordinance may not prohibit the providing of law enforcement services for an excluded city under an interlocal agreement under IC 36-1-7.
 - (4) A member of the county police force who:
 - (A) was an employee beneficiary of the sheriff's pension trust before the consolidation of the law enforcement departments; and
 - (B) after the consolidation becomes a law enforcement officer of the consolidated law enforcement department; remains an employee beneficiary of the sheriff's pension trust. The member retains, after the consolidation, credit in the sheriff's pension trust for service earned while a member of the county police force and continues to earn service credit in the sheriff's pension trust as a member of the consolidated law enforcement department for purposes of determining the member's benefits from the sheriff's pension trust.
 - (5) A member of the police department of the consolidated city who:
 - (A) was a member of the 1953 fund or the 1977 fund before the consolidation of the law enforcement departments; and
 - (B) after the consolidation becomes a law enforcement officer of the consolidated law enforcement department; remains a member of the 1953 fund or the 1977 fund. The member retains, after the consolidation, credit in the 1953 fund or the 1977 fund for service earned while a member of the police department of the consolidated city and continues to earn service credit in the 1953 fund or the 1977 fund as a member of the consolidated law enforcement department for purposes of determining the member's benefits from the 1953 fund or the 1977 fund.
 - (6) The ordinance must designate the merit system that shall apply to the law enforcement officers of the consolidated law enforcement department.
 - (7) The ordinance must designate who shall serve as a coapplicant for a warrant or an extension of a warrant under IC 35-33.5-2.
 - (8) The consolidated city may levy property taxes within the consolidated city's maximum permissible ad valorem property tax levy limit to provide for the payment of the expenses for the operation of the consolidated law enforcement department. The police special service district established under IC 36-3-1-6 may levy property taxes to provide for the payment of expenses for the operation of the consolidated law enforcement department within the territory of the police special service district. Property taxes to fund the pension obligation under IC 36-8-7.5 may be levied only by the police special service district within the police special service district. The consolidated city may not

levy property taxes to fund the pension obligation under IC 36-8-7.5. Property taxes to fund the pension obligation under IC 36-8-8 for members of the 1977 police officers' and firefighters pension and disability fund who were members of the police department of the consolidated city on the effective date of the consolidation may be levied only by the police special service district within the police special service district. Property taxes to fund the pension obligation under IC 36-8-8 for members of the sheriff's pension trust and members of the 1977 police officers' and firefighters pension and disability fund who were not members of the police department of the consolidated city on the effective date of the consolidation may be levied by the consolidated city within the consolidated city's maximum permissible ad valorem property tax levy. The assets of the consolidated city's 1953 fund and the assets of the sheriff's pension trust may not be pledged after the effective date of the consolidation as collateral for any loan.

(9) The executive of the consolidated city shall provide for an independent evaluation and performance audit, due before March 1 of the year following the adoption of the consolidation ordinance and for the following two (2) years, to determine:

(A) the amount of any cost savings, operational efficiencies, or improved service levels; and

(B) any tax shifts among taxpayers;

that result from the consolidation. The independent evaluation and performance audit must be provided to the legislative council in an electronic format under IC 5-14-6 and to the state budget committee.

SECTION 18. IC 36-3-1-6.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.1. (a) This section applies only in a county containing a consolidated city. If the requirements of subsection (g) are satisfied, the fire departments of the following are consolidated into the fire department of a consolidated city (referred to as "the consolidated fire department"):

(1) A township for which the consolidation is approved by the township legislative body and trustee and the legislative body and mayor of the consolidated city.

(2) Any fire protection territory established under IC 36-8-19 that is located in a township described in subdivision (1).

(b) If the requirements of subsection (g) are satisfied, the consolidated fire department shall provide fire protection services within an entity described in subsection (a)(1) or (a)(2) in which the requirements of subsection (g) are satisfied on the date agreed to in the resolution of the township legislative body and the ordinance of the legislative body of the consolidated city.

(c) If the requirements of subsection (g) are satisfied and the fire department of an entity listed in subsection (a) is consolidated into the fire department of the consolidated city, all of the property, equipment, records, rights, and contracts of the department consolidated into the fire department of the consolidated city are:

(1) transferred to; or

(2) assumed by;

the consolidated city on the effective date of the consolidation. However, real property other than real property used as a fire station may be transferred only on terms mutually agreed to by the legislative body and mayor of the consolidated city and the trustee and legislative body of the township in which that real property is located.

(d) If the requirements of subsection (g) are satisfied and the fire department of an entity listed in subsection (a) is consolidated into the fire department of the consolidated city, the employees of the fire department consolidated into the fire department of the consolidated city cease employment with the department of the entity listed in subsection (a) and become employees of the consolidated fire department on the effective date of the consolidation. The consolidated city shall assume all agreements with labor organizations that:

(1) are in effect on the effective date of the consolidation;

and

(2) apply to employees of the department consolidated into the fire department of the consolidated city who become employees of the consolidated fire department.

(e) If the requirements of subsection (g) are satisfied and the fire department of an entity listed in subsection (a) is consolidated into the fire department of a consolidated city, the indebtedness related to fire protection services incurred before the effective date of the consolidation by the entity or a building, holding, or leasing corporation on behalf of the entity whose fire department is consolidated into the consolidated fire department under subsection (a) shall remain the debt of the entity and does not become and may not be assumed by the consolidated city. Indebtedness related to fire protection services that is incurred by the consolidated city before the effective date of the consolidation shall remain the debt of the consolidated city and property taxes levied to pay the debt may only be levied by the fire special service district.

(f) If the requirements of subsection (g) are satisfied and the fire department of an entity listed in subsection (a) is consolidated into the fire department of a consolidated the merit board and the merit system of the fire department that is consolidated are dissolved on the effective date of the consolidation, and the duties of the merit boards are transferred to and assumed by the merit board for the consolidated fire department on the effective date of the consolidation.

(g) A township legislative body, after approval by the township trustee, may adopt a resolution approving the consolidation of the township's fire department with the fire department of the consolidated city. A township legislative body may adopt a resolution under this subsection only after the township legislative body has held a public hearing concerning the proposed consolidation. The township legislative body shall hold the hearing not earlier than thirty (30) days after the date the resolution is introduced. The hearing shall be conducted in accordance with IC 5-14-1.5 and notice of the hearing shall be published in accordance with IC 5-3-1. If the township legislative body has adopted a resolution under this subsection, the township legislative body shall, after approval from the township trustee, forward the resolution to the legislative body of the consolidated city. If such a resolution is forwarded to the legislative body of the consolidated city, the legislative body of the consolidated city may adopt an ordinance, approved by the mayor of the consolidated city, approving the consolidation of the fire department of the township into the fire department of the consolidated city and the requirements of this subsection are satisfied. The consolidation shall take effect on the date agreed to by the township legislative body in its resolution and by the legislative body of the consolidated city in its ordinance approving the consolidation.

(h) The following apply if the requirements of subsection (g) are satisfied:

(1) The consolidation of the fire department of that township is effective on the date agreed to by the township legislative body in the resolution and by the legislative body of the consolidated city in its ordinance approving the consolidation.

(2) Notwithstanding any other provision, a firefighter:

(A) who is a member of the 1977 fund before the effective date of a consolidation under this section; and

(B) who, after the consolidation, becomes an employee of the fire department of a consolidated city under this section;

remains a member of the 1977 fund without being required to meet the requirements under IC 36-8-8-19 and IC 36-8-8-21. The firefighter shall receive credit for any service as a member of the 1977 fund before the consolidation to determine the firefighter's eligibility for benefits under IC 36-8-8.

(3) Notwithstanding any other provision, a firefighter:

(A) who is a member of the 1937 fund before the effective date of a consolidation under this section; and

(B) who, after the consolidation, becomes an employee of the fire department of a consolidated city under this

section;

remains a member of the 1937 fund. The firefighter shall receive credit for any service as a member of the 1937 fund before the consolidation to determine the firefighter's eligibility for benefits under IC 36-8-7.

(4) For property taxes first due and payable in the year in which the consolidation is effective, the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5:

(A) is increased for the consolidated city by an amount equal to the maximum permissible ad valorem property tax levy in the year preceding the year in which the consolidation is effective for fire protection and related services by the township whose fire department is consolidated into the fire department of the consolidated city under this section; and

(B) is reduced for the township whose fire department is consolidated into the fire department of the consolidated city under this section by the amount equal to the maximum permissible ad valorem property tax levy in the year preceding the year in which the consolidation is effective for fire protection and related services for the township.

(5) The amount levied in the year preceding the year in which the consolidation is effective by the township whose fire department is consolidated into the fire department of the consolidated city for the township's cumulative building and equipment fund for fire protection and related services is transferred on the effective date of the consolidation to the consolidated city's cumulative building and equipment fund for fire protection and related services, which is hereby established. The consolidated city is exempted from the requirements of IC 36-8-14 and IC 6-1.1-41 regarding establishment of the cumulative building and equipment fund for fire protection and related services.

(6) The local boards for the 1937 firefighters' pension fund and the 1977 police officers' and firefighters' pension and disability fund of the township are dissolved, and their services are terminated not later than the effective date of the consolidation. The duties performed by the local boards under IC 36-8-7 and IC 36-8-8, respectively, are assumed by the consolidated city's local board for the 1937 firefighters' pension fund and local board for the 1977 police officers' and firefighters' pension and disability fund, respectively. Notwithstanding any other provision, the legislative body of the consolidated city may adopt an ordinance to adjust the membership of the consolidated city's local board to reflect the consolidation.

(7) The consolidated city may levy property taxes within the consolidated city's maximum permissible ad valorem property tax levy limit to provide for the payment of the expenses for the operation of the consolidated fire department. However, property taxes to fund the pension obligation under IC 36-8-7 for members of the 1937 firefighters fund who were employees of the consolidated city at the time of the consolidation may be levied only by the fire special service district within the fire special service district. The fire special service district established under IC 36-3-1-6 may levy property taxes to provide for the payment of expenses for the operation of the consolidated fire department within the territory of the police special service district. Property taxes to fund the pension obligation under IC 36-8-8 for members of the 1977 police officers' and firefighters' pension and disability fund who were members of the fire department of the consolidated city on the effective date of the consolidation may be levied only by the fire special service district within the fire special service district. Property taxes to fund the pension obligation for members of the 1937 firefighters fund who were not members of the fire department of the consolidated city on the effective date of the consolidation and members of the 1977 police officers' and firefighters' pension and disability fund who were not members of the fire department of the consolidated city on the effective date

of the consolidation may be levied by the consolidated city within the city's maximum permissible ad valorem property tax levy. However, these taxes may be levied only within the fire special service district and any townships that have consolidated fire departments under this section.

(8) The executive of the consolidated city shall provide for an independent evaluation and performance audit, due before March 1 of the year in which the consolidation is effective and for the following two (2) years, to determine:

(A) the amount of any cost savings, operational efficiencies, or improved service levels; and

(B) any tax shifts among taxpayers;

that result from the consolidation. The independent evaluation and performance audit must be provided to the legislative council in an electronic format under IC 5-14-6 and to the state budget committee.

SECTION 19. IC 36-3-1-6.2 IS ADDED TO INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.2. (a) If a consolidated fire department is established under section 6.1 of this chapter, the consolidated city, through the consolidated fire department, shall after the consolidation establish, operate, and maintain emergency ambulance services (as defined in IC 16-18-2-107) in the fire special service district and in those townships in the county that are consolidated under section 6.1 of this chapter.

(b) This section does not prohibit the providing of emergency ambulance services under an interlocal agreement under IC 36-1-7.

SECTION 20. IC 36-3-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A special service district of the consolidated city:

(1) may sue and be sued;

(2) may exercise powers of the consolidated city to the extent that those powers are delegated to it by law, but may not issue bonds; and

(3) shall provide services to property owners only in the district, unless a law provides otherwise.

(b) A special service district or special taxing district shall be administered under the jurisdiction of a department of the consolidated city or the county. The territory of a special service district or special taxing district may be expanded, in the manner prescribed by law, to include territory inside the county that is not originally included in the district.

(c) The city-county legislative body may, by ordinance, expand the territory of a special service solid waste collection district subject to the following conditions: as follows:

(1) In the case of the fire district, the ordinance may not be considered unless a petition to include additional territory in the district is first submitted to the metropolitan development commission for study and recommendation. The petition must be signed by a majority of the landowners, or by owners of land amounting to seventy-five percent (75%) in assessed valuation, in the proposed additional territory. After receiving the petition, the metropolitan development commission shall make findings of fact and recommendations and serve copies of these on the fire chief, the executive of each township affected, and the petitioners at least thirty (30) days before a public hearing before the legislative body. After the public hearing, the legislative body may pass the ordinance only if it determines:

(A) that reasonable and adequate fire protection service can be provided within the additional territory by the consolidated city; and

(B) that expansion of the district is in the public interest.

(2) In the case of the police district, the legislative body must hold a public hearing and then may pass the ordinance only if it determines:

(A) that reasonable and adequate police protection can be provided within the additional territory by the consolidated city; and

(B) that expansion of the district is in the public interest.

(3) In the case of the solid waste collection district,

(1) The ordinance may not be considered unless a petition to include additional territory in the district is first submitted to the

works board for study and recommendation.

(2) The petition must be signed by at least ten (10) interested residents in the proposed additional territory.

(3) After receiving the petition, the works board shall:

(A) set a date for a public hearing;

(B) publish notice of the hearing in accordance with IC 5-3-1; and

(C) upon hearing the matter, determine whether the territory should be added to the district.

(4) If the works board recommends that the territory should be added to the district, the legislative body must hold a public hearing and then may pass the ordinance.

(5) Territory in the solid waste collection district may also be removed from the district in the manner prescribed by this subdivision: section.

SECTION 21. IC 36-3-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The executive shall, subject to the approval of the city-county legislative body, appoint each of his the executive's deputies and the director of each department of the consolidated city. A deputy or director is appointed for a term of one (1) year and until his a successor is appointed and qualified, but serves at the pleasure of the executive.

(b) When making an appointment under subsection (a), the executive shall submit the name of an appointee to an office to the legislative body for its approval as follows:

(1) When the office has an incumbent, not more than forty-five (45) days before the expiration of the incumbent's one (1) year term.

(2) When the office has been vacated, not more than forty-five (45) days after the vacancy occurs.

(c) The executive may appoint an acting deputy or acting director whenever the incumbent is incapacitated or the office has been vacated. An acting deputy or acting director has all the powers of the office.

(d) The executive shall appoint:

(1) a controller;

(2) two (2) deputy controllers, only one (1) of whom may be from the same political party as the executive; and

(3) a corporation counsel;

each of whom serves at the pleasure of the executive.

(e) The corporation counsel and every attorney who is a city employee working for the corporation counsel must be a resident of the county and admitted to the practice of law in Indiana.

SECTION 22. IC 36-3-5-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.5. (a) The controller appointed under section 2 of this chapter is:

(1) the fiscal officer of:

(A) the consolidated city; but and

(B) the county; and

(2) the director of the office of finance and management under section 2.7 of this chapter.

(b) The county treasurer shall serve serves ex officio as the treasurer of the consolidated city.

SECTION 23. IC 36-3-5-2.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.6. The:

(1) controller is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the controller's duty as a fiscal officer of:

(A) the consolidated city; and

(B) the county; and

(2) deputy controller is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the deputy controller's duty;

unless the act or omission constitutes gross negligence or an intentional disregard of the controller's or the deputy controller's duty.

SECTION 24. IC 36-3-5-2.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.7. (a) The office of finance and management is established and is responsible for:

(1) budgeting, except as provided in subsection (c);

(2) financial reporting and audits;

(3) purchasing; and

(4) fixed assets;
for all city and county departments, offices, and agencies.

(b) The controller:

- (1) serves as the director of; and
- (2) may organize into divisions;

the office of finance and management.

(c) The office of finance and management is not responsible for the issuance of warrants for payments from county and city funds.

SECTION 25. IC 36-3-5-2.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 2.8. (a) Except as provided in subsections (b) and (c), the controller:**

- (1) has all the powers; and
- (2) performs all the duties;

of the county auditor under law.

(b) The controller:

- (1) does not have the powers; and
- (2) may not perform the duties;

of the county auditor under IC 36-2-9.5 and IC 36-3-6, or as a member of the board of commissioners of the county under IC 36-3-3-10.

(c) Notwithstanding subsection (a) or any other law, the executive, with the approval of the legislative body, may allocate the duties of the county auditor, except the duties referred to in subsection (b), among:

- (1) the controller;
- (2) the county assessor;
- (3) the county auditor; or
- (4) other appropriate city or county officials.

SECTION 26. IC 36-3-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 4. (a)** The following executive departments of the consolidated city are established, subject to IC 36-3-4-23:

- (1) Department of administration and equal opportunity.
- (2) Department of metropolitan development.
- (3) Department of public safety.
- (4) Department of public works.
- (5) Department of transportation.
- (6) Department of parks and recreation.

These departments and their divisions have all the powers, duties, functions, and obligations prescribed by law for them as of August 31, 1981, subject to IC 36-3-4-23.

(b) The department of public utilities established under IC 8-1-11.1 continues as an agency of the consolidated city, which is the successor trustee of a public charitable trust created under Acts 1929, c. 78. The department of public utilities is governed under IC 8-1-11.1 and is not subject to this article.

SECTION 27. IC 36-3-5-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 9. The controller shall furnish standard forms for use in the:**

- (1) transaction of business; and
- (2) performance of services for which the consolidated city or county receives a specific fee.

SECTION 28. IC 36-3-5-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 10. The controller, in the name of the state and on behalf of any fund of the county or consolidated city, may sue principals or sureties on any obligation, whether the obligation is in the name of the state or another person.**

SECTION 29. IC 36-3-5-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 11. The controller shall:**

- (1) immediately file the original of the county treasurer's monthly report under IC 36-2-10-16 with the records of the county board of finance;
- (2) present one (1) copy of the report to the legislative body of the consolidated city at its next regular meeting; and
- (3) immediately transmit one (1) copy of the report to the state board of accounts.

SECTION 30. IC 36-3-5-12 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 12. (a) Except as provided in subsection (b), if the controller is held personally liable for penalties and interest assessed by the Internal Revenue Service, the county treasurer shall reimburse the controller in an amount equal to the penalties and interest.**

(b) The county treasurer may not reimburse the controller under subsection (a) if the controller willfully or intentionally fails or refuses to file a return or make a required deposit on the date the return or deposit is due.

SECTION 31. IC 36-3-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 4. (a)** Before the Wednesday after the first Monday in July each year, the consolidated city and county shall prepare budget estimates for the ensuing budget year under this section.

(b) The following officers shall prepare for their respective departments, offices, agencies, or courts an estimate of the amount of money required for the ensuing budget year, stating in detail each category and item of expenditure they anticipate:

- (1) The director of each department of the consolidated city.
- (2) Each township assessor, elected county officer, or head of a county agency.
- (3) The county clerk, for each court of which he is clerk.

(c) In addition to the estimates required by subsection (b), the county clerk shall prepare an estimate of the amount of money that is, under law, taxable against the county for the expenses of cases tried in other counties on changes of venue.

(d) Each officer listed in subsection (b)(2) or (b)(3) shall append a certificate to each estimate ~~he the officer~~ prepares stating that in ~~his~~ **the officer's** opinion the amount fixed in each item will be required for the purpose indicated. The certificate must be verified by the oath of the officer.

(e) An estimate for a court or division of a court is subject to modification and approval by the judge of the court or division.

(f) All of the estimates prepared by city officers **and county officers** shall be submitted to the city fiscal officer, ~~and all of the estimates prepared by county officers shall be submitted to the county fiscal officer.~~ **controller.**

(g) The ~~city fiscal officer~~ **controller** shall also prepare an itemized estimate of city **and county** expenditures for other purposes above the money proposed to be used by the city departments **and county officers and agencies.**

SECTION 32. IC 36-3-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5. (a)** The ~~consolidated city fiscal officer~~ **controller** shall review and revise the estimates of city expenditures ~~prepared submitted~~ under section 4 of this chapter. Then ~~he the controller~~ shall prepare for the executive a report of the estimated ~~department~~ budgets, miscellaneous expenses, and revenues necessary or available to finance the estimates, along with ~~his the controller's~~ recommendations.

(b) The executive shall determine the amounts to be included in the proposed appropriations ordinance by the ~~city fiscal officer~~ **controller** and advise ~~him the controller~~ of those amounts.

SECTION 33. IC 36-3-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 6. (a)** The ~~consolidated city fiscal officer and the county fiscal officer~~ **controller** shall, with the assistance of the corporation counsel, prepare:

- (1) proposed appropriations ordinances for the city and county and each special service district; and
- (2) proposed ordinances fixing the rate of taxation for the taxes to be levied for all city and county departments, offices, and agencies.

The proposed appropriations ordinances must contain all the amounts necessary for the operation of consolidated government, listed in major classifications.

(b) The ~~fiscal officers~~ **controller** shall submit the proposed ordinances **prepared under subsection (a)** along with appropriation detail accounts for each city and county department, office, and agency, to the city clerk not later than the first meeting of the city-county legislative body in August.

SECTION 34. IC 36-3-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 8.** After the passage of an appropriations ordinance, a legislative body may, on the

recommendation of

- ~~(1) the consolidated city fiscal officer as to city matters; or~~
- ~~(2) the county fiscal officer controller, as to all city and county matters,~~

make further or additional appropriations, unless their result is to increase a tax levy set by ordinance.

SECTION 35. IC 36-3-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The city-county legislative body ~~may shall~~ review ~~and modify~~ the ~~proposed~~ operating and maintenance budgets and the tax levies ~~of and adopt final operating and maintenance budgets and tax levies for each of the~~ following entities in the county:

- (1) An airport authority operating under IC 8-22-3.
- ~~(2) A health and hospital corporation operating under IC 16-22-8.~~
- ~~(3) (2) A public library operating under IC 20-14.~~
- ~~(4) (3) A capital improvement board of managers operating under IC 36-10.~~
- ~~(5) (4) A public transportation corporation operating under IC 36-9-4.~~

Except as provided in subsection (c), the city-county legislative body may reduce or modify but not increase a proposed operating and maintenance budget or tax levy under this section.

(b) The board of each entity listed in subsection (a) shall, after adoption of its **proposed** budget and tax levies, submit them, along with detailed accounts, to the city clerk before the first day of September of each year.

(c) The city-county legislative body may review the issuance of bonds of an entity listed in subsection (a), but approval of the city-county legislative body is not required for the issuance of bonds. **The city-county legislative body may not reduce or modify a budget or tax levy of an entity listed in subsection (a) in a manner that would:**

- (1) limit or restrict the rights vested in the entity to fulfill the terms of any agreement made with the holders of the entity's bonds; or**
- (2) in any way impair the rights or remedies of the holders of the entity's bonds.**

(d) If the assessed valuation of a taxing unit is entirely contained within an excluded city or town (as described in IC 36-3-1-7) that is located in a county having a consolidated city, the governing body of the taxing unit shall submit its proposed operating and maintenance budget and tax levies to the city or town fiscal body for approval.

(e) The city-county legislative body may review and modify the operating and maintenance budgets and the tax levies of a health and hospital corporation operating under IC 16-22-8. If the total of all proposed property tax levies for the health and hospital corporation for the ensuing calendar year is more than five percent (5%) greater than the total of all property tax levies for the health and hospital corporation for the current calendar year, the city-county legislative body shall review the proposed budget and the tax levies of the health and hospital corporation and shall adopt the final budget and tax levies for the health and hospital corporation. **Except as provided in subsection (c), the city-county legislative body may reduce or modify but not increase the health and hospital corporation's proposed operating and maintenance budget or tax levy under this section. The board of the health and hospital corporation shall, after adoption of its proposed budget and tax levies, submit them, along with detailed accounts, to the city clerk before the first day of September of each year.**

SECTION 36. IC 36-6-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The executive shall do the following:

- (1) Keep a written record of official proceedings.
- (2) Manage all township property interests.
- (3) Keep township records open for public inspection.
- (4) Attend all meetings of the township legislative body.
- (5) Receive and pay out township funds.
- (6) Examine and settle all accounts and demands chargeable against the township.
- (7) Administer poor relief under IC 12-20 and IC 12-30-4.
- (8) Perform the duties of fence viewer under IC 32-26.

(9) Act as township assessor when required by IC 36-6-5.

(10) Provide and maintain cemeteries under IC 23-14.

(11) Provide fire protection under IC 36-8, **except in a township that:**

- (A) is located in a county having a consolidated city; and**
- (B) consolidated the township's fire department under IC 36-3-1-6.1.**

(12) File an annual personnel report under IC 5-11-13.

(13) Provide and maintain township parks and community centers under IC 36-10.

(14) Destroy detrimental plants, noxious weeds, and rank vegetation under IC 15-3-4.

(15) Provide insulin to the poor under IC 12-20-16.

(16) Perform other duties prescribed by statute.

SECTION 37. IC 36-8-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) This section applies to:

- (1) all municipalities; and**
- (2) a county having a consolidated city.**

(b) A warrant of search or arrest, issued by any judge, may be executed in the municipality by:

- (1) any municipal police officer; or**
- (2) a member of the consolidated law enforcement department established under IC 36-3-1-5.1;**

subject to the laws governing arrest and bail.

(c) The police officers of a municipality **or a member of the consolidated law enforcement department** shall:

- (1) serve all process within the municipality **or the consolidated city** issuing from the city or town court;
- (2) arrest, without process, all persons who within view violate statutes, take them before the court having jurisdiction of the offense, and retain them in custody until the cause of the arrest has been investigated;
- (3) enforce municipal ordinances in accordance with IC 36-1-6;
- (4) suppress all breaches of the peace within their knowledge and may call to their aid the power of the municipality **or the consolidated city** and pursue and commit to jail persons guilty of crimes;
- (5) serve all process issued by:

- (A) the legislative body of the municipality or the consolidated city; or**
- (B) any committee of it; the legislative body of the municipality or the consolidated city; or by**
- (C) any of the executive departments of the municipality or the consolidated city;**

(6) serve the city or town court and assist the bailiff in preserving order in the court; and

(7) convey prisoners to and from the county jail or station houses of the municipality **or the consolidated city** for arraignment or trial in the city or town court or to the place of imprisonment under sentence of the court.

SECTION 38. IC 36-8-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This chapter applies to the following:

- (1) All municipalities.**
- (2) A county having a consolidated city that establishes a consolidated law enforcement department established under IC 36-3-1-5.1. In addition;**

(b) Section 2 of this chapter applies to any other political subdivision that employs full-time, fully paid firefighters.

SECTION 39. IC 36-8-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This chapter applies to pension benefits for members of fire departments hired before May 1, 1977, in units for which a 1937 fund was established before May 1, 1977.

(b) A firefighter with twenty (20) years of service is covered by this chapter and not by IC 36-8-8 if ~~he~~ **the firefighter:**

- (1) was hired before May 1, 1977;
- (2) did not convert under IC 19-1-36.5-7 (repealed September 1, 1981); and
- (3) is rehired after April 30, 1977, by the same employer.

(c) A firefighter is covered by this chapter and not by IC 36-8-8 if ~~he~~ **the firefighter:**

- (1) was hired before May 1, 1977;
- (2) did not convert under IC 19-1-36.5-7 (repealed September 1, 1981);
- (3) was rehired after April 30, 1977, but before February 1, 1979; and
- (4) was made, before February 1, 1979, a member of a 1937 fund.

(d) A firefighter who:

(1) is covered by this chapter before a consolidation under IC 36-3-1-6.1; and

(2) becomes a member of a fire department of a consolidated city under IC 36-3-1-6.1;

is covered by this chapter after the effective date of the consolidation, and the firefighter's service as a member of a fire department of a consolidated city is considered active service under this chapter.

SECTION 40. IC 36-8-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) If a unit has less than five (5) members in its fire department, the unit may provide for the organization of a local board consisting of the fire chief, the executive of the unit, and one (1) member of the fire department.

(b) The trustee from the fire department shall be elected under this section.

(c) The local board may amend the bylaws of the fund to elect the trustee from the fire department in an election held on any three (3) consecutive days in February specified in the bylaws. The election shall be called by the fire chief and held at the house or quarters of the fire department. Subject to this section, the election shall be conducted in the manner specified in the bylaws.

(d) This subsection applies only if the local board does not elect to be governed by subsection (c). The trustee from the fire department shall be elected at a meeting held on the second Monday in February each year. The meeting shall be called by the fire chief and held at the house or quarters of the fire department.

(e) The term of the elected trustee is one (1) year beginning immediately after ~~his~~ the trustee's election.

(f) Each member of the department is entitled to one (1) ballot and the person receiving the highest number of votes is elected. The executive of the unit, the fire chief, and the city or county clerk shall canvass and count the ballots, and the clerk shall issue a certificate of election to the person having received the highest number of votes. If two (2) persons have received the same number of votes, the executive and the chief shall immediately determine by lot who will be the trustee from the persons receiving an equal number of votes.

(g) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.

SECTION 41. IC 36-8-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) An election shall be held each year under this section to elect one (1) trustee from the active members of the fire department for a term of four (4) years, commencing on the day of his election. The fire chief shall fix a time for holding a convention to nominate candidates for trustees to be elected at each election. Each convention must be held at least five (5) days before the day on which the annual election is held. A convention consists of one (1) delegate from each fire company and one (1) delegate to be selected by the chief and ~~his~~ the chief's assistants. The delegate from each fire company shall be elected by ballot by the members of the company at a time to be fixed by the chief in the call for a convention. The election of delegates shall be certified by the captain or other officer of the company, or, if there is not an officer present, then by the oldest member of the company present. The convention, when assembled, shall nominate six (6) members of the fire department to be voted upon as trustees, and the delegates shall report the names of the persons nominated as candidates to their respective companies in writing.

(b) The local board may amend the bylaws of the fund to elect the trustee from the active members of the fire department in an election held on any three (3) consecutive days in February specified in the bylaws. The election shall be called by the fire chief and held at the house or quarters of the respective companies of the fire department. Subject to this section, the election shall be conducted in the manner specified in the bylaws.

(c) This subsection applies only if the local board does not elect to be governed by subsection (b). The election shall be held at the houses or quarters of the respective companies on the second Monday in February between 9 a.m. and 6 p.m.

(d) Each member of a fire company is entitled to one (1) ballot, and the ballot may not contain the names of more than one (1) person, chosen from the six (6) persons nominated by the convention. The candidate receiving the highest number of votes is elected.

(e) The captain or other officer in command of each of the fire companies, immediately after the casting of all ballots, shall canvass and count the ballots. ~~He~~ The captain or other officer shall certify in writing the total number of ballots cast and the number of votes received by each candidate for the office of trustee. After signing the certificate, the officer shall enclose it, together with all the ballots cast by the fire company, in an envelope, securely sealed and addressed, and deliver them to the fire chief. The fire chief shall deliver them to the executive of the unit as soon as ~~the chief receives all the certificates and ballots. have been received by him.~~ Upon receipt the executive shall, in the presence of the chief and the clerk of the unit, open the envelopes, examine the certificates, and determine the total number of votes cast for each of the candidates. The executive shall then issue a certificate of election to the candidate having received the highest number of votes. If two (2) or more candidates have received the same number of votes, the executive and the chief shall immediately determine by lot who will be trustee from the persons receiving an equal number of votes. An election may not be set aside for lack of formality in balloting by the members or in certifying or transmitting the returns of an election by the officers in charge.

(f) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.

SECTION 42. IC 36-8-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) An election shall be held under this section every two (2) years to elect one (1) trustee from the retired members of the fire department for a term of two (2) years, commencing on the day of ~~his~~ the trustee's election, if the retired list contains **at least** three (3) ~~or more~~ retired members at the time of election. The fire chief shall fix a time for holding a convention to nominate candidates for trustee to be elected at each election. Each convention must be held at least fifteen (15) days before the day on which the biennial election is held. All retired members of the fire department may participate in the convention. The convention, when assembled, shall nominate not more than four (4) members of the retired list to be voted upon as trustee. The secretary of the board shall mail the names of the persons nominated along with an official ballot to the retired members within forty-eight (48) hours of the end of the convention.

(b) The election shall be conducted by mail. Each retired member is entitled to cast one (1) ballot by mail and the ballot may not contain more than one (1) name, chosen from the list of retired persons nominated by the convention. The candidate receiving the highest number of votes by 6 p.m. on the second Monday in February or an alternative date in February specified in the bylaws of the fund is elected.

(c) The ballots must remain closed and inviolate until the close of the election, at which time, in the presence of the executive of the unit, the fire chief, and the clerk of the unit, the ballots shall be opened and counted. A certificate of election shall be issued to the candidate receiving the highest number of votes. If two (2) or more candidates receive the same number of votes, the executive and the chief shall immediately determine by lot who will be trustee from the persons receiving an equal number of votes.

(d) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.

SECTION 43. IC 36-8-7-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.5. (a) All ballots voted under this chapter shall be secured until the balloting is closed.

(b) Tampering with a ballot for an election under this chapter is a Class A infraction.

(c) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.

SECTION 44. IC 36-8-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The fire

chief is the president of the local board.

(b) At the first meeting after each election, the local board shall elect a secretary, who may be chosen from among the trustees. However, the local board may consider it proper to have a secretary who is a member of the fire department, to be elected by the companies for a term of four (4) years in the same manner as the election for trustees. The secretary shall keep a full record of all the proceedings of the local board in a book provided for that purpose.

(c) The local board shall make all rules necessary for the discharge of its duties and shall hear and determine all applications for relief or pensions under this chapter.

(d) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.

SECTION 45. IC 36-8-7.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This chapter applies to pension benefits for members of police departments hired before May 1, 1977, by a consolidated city.

(b) A police officer with twenty (20) years of service is covered by this chapter and not by IC 36-8-8 if:

- (1) the officer was hired before May 1, 1977;
- (2) the officer did not convert under IC 19-1-17.8-7 (repealed September 1, 1981);
- (3) the officer was not a member of the 1953 fund because:
 - (A) ~~his the officer's~~ employment was on a temporary or emergency status under a statute in effect before February 25, 1953;
 - (B) ~~he the officer~~ failed to pass a five (5) year physical requirement under such a statute; or
 - (C) ~~he the officer~~ was a war veteran without pension status;
- (4) the officer submitted to a physical medical examination, if required by the local board, and the results were satisfactory; and
- (5) the officer was accepted by the local board as a member of the 1953 fund upon payment of all dues required for ~~his the officer's~~ entire time as a member of the police department.

(c) A police officer is covered by this chapter and not by IC 36-8-8 if ~~he the officer~~:

- (1) was hired before May 1, 1977; and
- (2) did not convert under IC 19-1-17.8-7 (repealed September 1, 1981).

(d) A police officer is covered by this chapter and not by IC 36-8-8 if ~~he the officer~~:

- (1) was hired before May 1, 1977;
- (2) did not convert under IC 19-1-17.8-7 (repealed September 1, 1981);
- (3) is a regularly appointed member of the police department;
- (4) is a member of the 1953 fund;
- (5) was employed on a temporary or emergency status before regular employment; and
- (6) paid into the 1953 fund by not later than January 1, 1968, all dues for the period ~~he the officer~~ was on temporary or emergency status.

(e) A police officer who:

- (1) is covered by this chapter before consolidation under IC 36-3-1-5.1; and**
- (2) becomes a member of the consolidated law enforcement department through consolidation under IC 36-3-1-5.1;**

is covered by this chapter after the effective date of the consolidation, and the officer's service as a member of the consolidated law enforcement department is considered active service under this chapter.

(f) In computing the length of active service rendered by any police officer for the purpose of determining the expiration of a period of twenty (20) years of active service, all of the following periods are counted:

- (1) All of the time the officer performed the duties of ~~his the officer's~~ position in active service.
- (2) Vacation time or periods of leave of absence with whole or part pay.
- (3) Periods of leave of absence without pay that were necessary on account of physical or mental disability.
- (4) Periods of disability for which the officer will receive or has received any disability benefit.

(g) In computing the term of service there is not included any of the following:

- (1) Periods during which the police officer was or is suspended or on leave of absence without pay.
- (2) Periods during which the officer was not in active service on account of ~~his the officer's~~ resignation from the department.
- (3) Time served as a special police officer, a merchant police officer, or private police officer.

SECTION 46. IC 36-8-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies to:

- (1) full-time police officers hired or rehired after April 30, 1977, in all municipalities, or who converted their benefits under IC 19-1-17.8-7 (repealed September 1, 1981);
- (2) full-time fully paid firefighters hired or rehired after April 30, 1977, or who converted their benefits under IC 19-1-36.5-7 (repealed September 1, 1981);
- (3) a police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996; ~~and~~
- (4) a park ranger who:

- (A) completed at least the number of weeks of training at the Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at the time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;
- (B) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and
- (C) is employed by the parks department of a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

(5) a full-time fully paid firefighter who is covered by this chapter before the effective date of consolidation and becomes a member of the fire department of a consolidated city under IC 36-3-1-6.1, provided that the firefighter's service as a member of the fire department of a consolidated city is considered active service under this chapter;

(6) except as otherwise provided, a full-time fully paid firefighter who is hired or rehired after the effective date of the consolidation by a consolidated fire department established under IC 36-3-1-6.1;

(7) a full-time police officer who is covered by this chapter before the effective date of consolidation and becomes a member of the consolidated law enforcement department as part of the consolidation under IC 36-3-1-5.1, provided that the officer's service as a member of the consolidated law enforcement department is considered active service under this chapter; and

(8) except as otherwise provided, a full-time police officer who is hired or rehired after the effective date of the consolidation by a consolidated law enforcement department established under IC 36-3-1-5.1;

except as provided by section 7 of this chapter.

SECTION 47. IC 36-8-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "employer" means:

- (1) a municipality that established a 1925 or 1953 fund or that participates in the 1977 fund under section 3 or 18 of this chapter; ~~or~~
- (2) a unit that established a 1937 fund or that participates in the 1977 fund under section 3 or 18 of this chapter;
- (3) a consolidated city that consolidated the fire departments of units that:**

- (A) established a 1937 fund; or**
- (B) participated in the 1977 fund;**

before the units' consolidation into the fire department of a consolidated city established by IC 36-3-1-6.1; or
(4) a consolidated city that establishes a consolidated law enforcement department under IC 36-3-1-5.1.

SECTION 48. IC 36-8-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Except as

provided in subsections (d), (e), (f), (g), ~~and~~ (h), (k), (l), (m), and (n):

- (1) a police officer; or
- (2) a firefighter;

who is less than thirty-six (36) years of age and who passes the baseline statewide physical and mental examinations required under section 19 of this chapter shall be a member of the 1977 fund and is not a member of the 1925 fund, the 1937 fund, or the 1953 fund.

(b) A police officer or firefighter with service before May 1, 1977, who is hired or rehired after April 30, 1977, may receive credit under this chapter for service as a police officer or firefighter prior to entry into the 1977 fund if the employer who rehires ~~him~~ **the police officer or firefighter** chooses to contribute to the 1977 fund the amount necessary to amortize ~~his~~ **the police officer's or firefighter's** prior service liability over a period of not more than forty (40) years, the amount and the period to be determined by the PERF board. If the employer chooses to make the contributions, the police officer or firefighter is entitled to receive credit for ~~his~~ **the police officer's or firefighter's** prior years of service without making contributions to the 1977 fund for that prior service. In no event may a police officer or firefighter receive credit for prior years of service if the police officer or firefighter is receiving a benefit or is entitled to receive a benefit in the future from any other public pension plan with respect to the prior years of service.

(c) Except as provided in section 18 of this chapter, a police officer or firefighter is entitled to credit for all years of service after April 30, 1977, with the police or fire department of an employer covered by this chapter.

(d) A police officer or firefighter with twenty (20) years of service does not become a member of the 1977 fund and is not covered by this chapter, if ~~he~~ **the police officer or firefighter**:

- (1) was hired before May 1, 1977;
- (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981); and
- (3) is rehired after April 30, 1977, by the same employer.

(e) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if ~~he~~ **the police officer or firefighter**:

- (1) was hired before May 1, 1977;
- (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);
- (3) was rehired after April 30, 1977, but before February 1, 1979; and
- (4) was made, before February 1, 1979, a member of a 1925, 1937, or 1953 fund.

(f) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if ~~he~~ **the police officer or firefighter**:

- (1) was hired by the police or fire department of a unit before May 1, 1977;
- (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);
- (3) is rehired by the police or fire department of another unit after December 31, 1981; and
- (4) is made, by the fiscal body of the other unit after December 31, 1981, a member of a 1925, 1937, or 1953 fund of the other unit.

If the police officer or firefighter is made a member of a 1925, 1937, or 1953 fund, ~~he~~ **the police officer or firefighter** is entitled to receive credit for all ~~his~~ **the police officer's or firefighter's** years of service, including years before January 1, 1982.

(g) As used in this subsection, "emergency medical services" and "emergency medical technician" have the meanings set forth in IC 16-18-2-110 and IC 16-18-2-112. A firefighter who:

- (1) is employed by a unit that is participating in the 1977 fund;
- (2) was employed as an emergency medical technician by a political subdivision wholly or partially within the department's jurisdiction;
- (3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and
- (4) ceased employment with the political subdivision and was hired by the unit's fire department due to the reorganization of emergency medical services within the department's

jurisdiction;

shall participate in the 1977 fund. A firefighter who participates in the 1977 fund under this subsection is subject to sections 18 and 21 of this chapter.

(h) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the individual was appointed as:

- (1) a fire chief under a waiver under IC 36-8-4-6(c); or
- (2) a police chief under a waiver under IC 36-8-4-6.5(c);

unless the executive of the unit requests that the 1977 fund accept the individual in the 1977 fund and the individual previously was a member of the 1977 fund.

(i) A police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996, is a member of the 1977 fund.

(j) A park ranger who:

- (1) completed at least the number of weeks of training at the Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at the time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;
- (2) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and
- (3) is employed by the parks department of a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

is a member of the fund.

(k) Notwithstanding any other provision of this chapter, a police officer or firefighter:

- (1) who is a member of the 1977 fund before a consolidation under IC 36-3-1-5.1 or IC 36-3-1-6.1;**
- (2) whose employer is consolidated into the fire department of a consolidated city under IC 36-3-1-5.1 or IC 36-3-1-6.1; and**
- (3) who, after the consolidation, becomes an employee of the consolidated law enforcement department or the consolidated fire department under IC 36-3-1-5.1 or IC 36-3-1-6.1;**

is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(l) Notwithstanding any other provision of this chapter, a police officer or firefighter who:

- (1) before a consolidation under IC 36-3-1-5.1 or IC 36-3-1-6.1, provides law enforcement services or fire protection services for an entity in a consolidated city;**
- (2) has the provision of those services consolidated into the fire department of a consolidated city; and**
- (3) after the consolidation, becomes an employee of the consolidated law enforcement department or the consolidated fire department under IC 36-3-1-5.1 or IC 36-3-1-6.1;**

is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(m) A police officer or firefighter who is a member of the 1977 fund under subsection (k) or (l) may not be:

- (1) retired for purposes of section 10 of this chapter; or**
- (2) disabled for purposes of section 12 of this chapter;**

solely because of a change in employer under the consolidation.

SECTION 49. IC 36-8-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies to all townships. **However, this chapter does not apply to a township in which the fire department of the township has been consolidated under IC 36-3-1-6.1.**

SECTION 50. IC 36-8-19-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **Except as provided in section 1.5 of this chapter,** this chapter applies to any geographic area that is established as a fire protection territory.

SECTION 51. IC 36-8-19-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. **If the fire departments of a township is consolidated under IC 36-3-1-6.1, after the effective date of the consolidation the township may not establish**

fire protection territory under this chapter.

(b) A fire protection territory that is established before the effective date of the consolidation in a township in which the township's fire department is consolidated under IC 36-3-1-6.1 becomes part of the geographic area in which the fire department of a consolidated city provides fire protection services.

SECTION 52. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "commission" refers to the Marion County consolidation study commission established by subsection (b).

(b) The Marion County consolidation study commission is established.

(c) The commission consists of the following members:

(1) Two (2) members of the house of representatives, not more than one (1) of whom may be a member of the same political party, appointed by the speaker of the house of representatives.

(2) Two (2) members of the senate, not more than one (1) of whom may be a member of the same political party, appointed by the president pro tempore of the senate.

(3) One (1) member appointed by the mayor of Indianapolis.

(4) One (1) member who is a township trustee in Marion County, appointed by the chairman of the legislative council upon the recommendation of the Marion County Trustees Association.

(5) One (1) member who is an elected township assessor in Marion County, appointed by the chairman of the legislative council upon the recommendation of the Marion County Township Assessors Association.

(6) Two (2) members appointed by the chairman of the legislative council upon the recommendation of the president of Indianapolis Lodge No. 86, Fraternal Order of Police, Inc. One (1) member appointed under this subdivision must be a law enforcement officer employed by the Marion County Sheriff's Department, and one (1) member appointed under this subdivision must be a law enforcement officer employed by the Indianapolis Police Department.

(7) Two (2) members appointed by the chairman of the legislative council upon the recommendation of the president of Indianapolis Metropolitan Professional Firefighters Local 416. One (1) member appointed under this subdivision must be a full-time firefighter employed by a fire department in a Marion County township other than Center Township. One (1) member appointed under this subdivision must be a full-time firefighter employed by the Indianapolis Fire Department.

(8) Two (2) members of the Marion County city-county council appointed by the chairman of the legislative council upon the joint recommendation of the president and the minority leader of the Marion County city-county council.

(9) One (1) member appointed by the chairman of the legislative council upon the recommendation of the president of the Marion County Alliance of Neighborhood Associations.

(10) One (1) member appointed by the chairman of the legislative council upon the recommendation of the president of the Greater Indianapolis Chamber of Commerce.

(d) The chairman of the legislative council shall appoint a member of the commission as the chair of the commission.

(e) The affirmative votes of a majority of the members appointed to the commission are required for the commission to take action on any measure, including the adoption of a final report.

(f) The legislative services agency shall provide staff support for the commission.

(g) Except as otherwise provided in this SECTION, the commission shall operate under the rules and procedures of the legislative council.

(h) The commission shall study the consolidation of local government in Marion County, including the consolidation of functions proposed in HB 1435-2005, as introduced, and in the "Indianapolis Works" plan.

(i) There is appropriated forty-five thousand dollars (\$45,000)

to the legislative council from the state general fund for the period beginning July 1, 2005, and ending June 30, 2006, to hire consultants, including accountants, auditors, and actuaries, that are necessary to assist the commission in reviewing and verifying information and data concerning the consolidation of local government in Marion County. The chairman and vice chairman of the legislative council must approve the hiring of any consultants by the commission.

(j) Before July 1, 2005, the city of Indianapolis must submit information concerning the following to the commission, including any data or assumption used by the city in providing the information:

(1) The anticipated locations and staffing levels of offices in Marion County providing services related to property assessment and township assistance.

(2) The operational efficiencies that may be achieved from the consolidation of law enforcement and firefighting functions.

(3) The anticipated law enforcement staffing and patrolling patterns throughout Marion County.

(4) The anticipated staffing of each existing fire station in Marion County.

(5) The anticipated wages and benefits that would be paid to law enforcement officers and firefighters of the consolidated departments, including any information concerning the timing of expected wage increases for officers and firefighters currently earning less than other officers with comparable rank and experience.

(6) The anticipated pension payments to law enforcement officers and firefighters and the funding source of those payments.

(7) The amount of any reductions in administrative costs resulting from the consolidation of property assessment, township assistance, law enforcement, and firefighting functions.

(8) The amount of any other savings that might occur if services currently provided by township assessors and township trustees (other than township assistance and firefighting services) were transferred to existing county and city departments.

(9) Any other information demonstrating the manner in which the consolidation proposed by HB 1435-2005, as introduced, would affect:

(A) the cost of providing local government services in Marion County;

(B) tax rates, tax levies, and budgets of units of local government in Marion County;

(C) the ability of local government to provide services; and

(D) the ability of citizens to interact with government officials.

(k) Any interested party may submit information and data described in subsection (j) to the commission.

(l) The commission shall issue a final report to the legislative council before December 1, 2005, concerning any findings and recommendations made by the commission.

(m) This SECTION expires December 31, 2005.

SECTION 53. [EFFECTIVE UPON PASSAGE] The general assembly finds the following:

(1) A consolidated city faces unique budget challenges due to a high demand for services combined with the large number of tax exempt properties located in a consolidated city as the seat of state government, home to several institutions of higher education, and home to numerous national, state, and regional nonprofit corporations.

(2) By virtue of its size and population density, a consolidated city has unique overlapping territories of county and city government and an absence of unincorporated areas within its county.

(3) Substantial operational efficiencies, reduction of administrative costs, and economies of scale may be obtained in a consolidated city through consolidation of certain county, city, and township functions.

(4) Consolidation of certain county, city, and township

services and operations will serve the public purpose by allowing the consolidated city to:

- (A) eliminate duplicative services;
- (B) provide better coordinated and more uniform delivery of local governmental services;
- (C) provide uniform oversight and accountability for the budgets for local governmental services;
- (D) allow local government services to be provided more efficiently and at a lower cost than without consolidation.
- (5) Efficient and fiscally responsible operation of local government benefits the health and welfare of the citizens of a consolidated city and is of public utility and benefit.
- (6) The public purpose of this act is to provide a consolidated city with the means to perform essential governmental services for its citizens in an effective, efficient, and fiscally responsible manner.

SECTION 54. [EFFECTIVE UPON PASSAGE] The legislative services agency shall prepare legislation for introduction in the 2006 regular session of the general assembly to organize and correct statutes affected by this act, if necessary.

SECTION 55. An emergency is declared for this act.

Renumber all SECTIONS consecutively.

(Reference is to ESB 307 as reprinted April 8, 2005.)

M. YOUNG	BEHNING
C. LAWSON	BORDERS
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1346-1; filed April 29, 2005, at 4:04 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1346 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT concerning human services.

Delete everything after the enacting clause and insert the following:

SECTION 1. P.L.28-2004, SECTION 191, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: SECTION 191. (a) As used in this SECTION, "division" refers to the division of mental health and addiction.

(b) Except as provided in ~~subsection (c)~~ subsections (c) and (d), notwithstanding IC 12-23-1-6(4), IC 12-23-14-7, and 440 IAC 4.4-2-1(e), the division may not grant specific approval to be a new provider of any of the following:

- (1) Methadone.
- (2) Levo-alphaacetylmethadol.
- (3) Levo-alpha-acetylmethadol.
- (4) Levomethadyl acetate.
- (5) LAAM.
- (6) Buprenorphine.

(c) The division may not grant specific approval to be a new provider of one (1) or more of the drugs listed under subsection (b) unless:

- (1) the drugs will be provided in a county with a population of more than forty thousand (40,000);
- (2) there are no other providers located in the county or in a county contiguous to the county where the provider will provide the drugs; and
- (3) the provider supplies, in writing:
 - (A) a needs assessment for Indiana citizens under guidelines established by the division; and
 - (B) any other information required by the division.

(d) Notwithstanding subsection (c), the division may grant specific approval to be a new provider of one (1) or more of the drugs listed under subsection (b) in a county contiguous to a county in which an existing provider is located if:

- (1) the drugs will be provided in a county with a population

of more than forty thousand (40,000);

(2) there are no other providers of the drugs listed under subsection (b) in the county in which the provider is seeking approval; and

(3) the provider supplies, in writing:

(A) a needs assessment for Indiana citizens under guidelines established by the division that demonstrates:

- (i) a heroin or opiate problem exists in the county in which the provider is seeking approval; and
- (ii) a need exists for a heroin or an opiate treatment program in the county; and

(B) any other information required by the division.

~~(d)~~ (e) Except as provided in subsection ~~(d)~~ (l), the division shall prepare a report by June 30 of each year concerning treatment offered by methadone providers that contains the following information:

- (1) The number of methadone providers in the state.
- (2) The number of patients on methadone during the previous year.
- (3) The length of time each patient received methadone and the average length of time all patients received methadone.
- (4) The cost of each patient's methadone treatment and the average cost of methadone treatment.
- (5) The rehabilitation rate of patients who have undergone methadone treatment.
- (6) The number of patients who have become addicted to methadone.
- (7) The number of patients who have been rehabilitated and are no longer on methadone.
- (8) The number of individuals, by geographic area, who are on a waiting list to receive methadone.
- (9) Patient information as reported to a central registry created by the division.

~~(e)~~ (f) Each methadone provider in the state shall provide information requested by the division for the report under subsection ~~(d)~~ (e). The information provided to the division may not reveal the specific identity of a patient.

~~(f)~~ (g) The information provided to the division under subsection ~~(e)~~ (f) must be based on a calendar year.

~~(g)~~ (h) The information required under subsection ~~(e)~~ (f) for calendar year 1998 must be submitted to the division not later than June 30, 1999. Subsequent information must be submitted to the division not later than:

- (1) February 29, 2004, for calendar year 2003;
- (2) February 28, 2005, for calendar year 2004;
- (3) February 28, 2006, for calendar year 2005;
- (4) February 28, 2007, for calendar year 2006; and
- (5) February 29, 2008, for calendar year 2007.

~~(h)~~ (i) Failure of a certified provider to submit the information required under subsection ~~(e)~~ (f) may result in suspension or termination of the provider's certification.

~~(i)~~ (j) The division shall report to the governor and the legislative council the failure of a certified provider to provide information required by subsection ~~(e)~~ (f).

~~(j)~~ (k) The division shall distribute the report prepared under subsection ~~(d)~~ (e) to the governor and legislative council.

~~(k)~~ (l) The first report the division is required to prepare under subsection ~~(d)~~ (e) is due not later than September 30, 1999.

~~(l)~~ (m) The division shall establish a central registry to receive the information required by subsection ~~(d)~~ (9): (e)(9).

~~(m)~~ (n) A report distributed under this SECTION to the legislative council must be in an electronic format under IC 5-14-6.

(o) This SECTION expires July 1, 2008.

(Reference is to EHB 1346 as printed April 1, 2005.)

BUELL	HARRISON
KROMKOWSKI	CRAYCRAFT
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1097-1; filed April 29, 2005, at 5:49 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate

Amendments to Engrossed House Bill 1097 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning military affairs.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 10-16-7.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:

Chapter 7.5. National Guard Employment Rights

Sec. 1. This chapter applies to a person called to active duty after September 11, 2001.

Sec. 2. As used in this chapter, "active duty" means full-time service in the national guard for a period that exceeds thirty (30) consecutive days in a calendar year.

Sec. 3. As used in this chapter, "employee" means an individual employed or permitted to work or perform any service for remuneration under a contract for hire, written or oral, by an employer in any occupation.

Sec. 4. As used in this chapter, "employer" means a person who employs at least twenty-five (25) employees in Indiana, including the state and political subdivisions of the state. The term does not include the United States or a corporation wholly owned by the United States.

Sec. 5. As used in this chapter, "national guard" refers only to:

- (1) the Indiana army national guard; and
- (2) the Indiana air national guard.

Sec. 6. As used in this chapter, "person" means an individual, a partnership, a corporation, a limited liability company, an unincorporated association, or a governmental entity.

Sec. 7. As used in this chapter, "political subdivision" has the meaning set forth in IC 6-3.5-2-1.

Sec. 8. (a) When an employee who was called to active duty is discharged or released after the active duty, the employer of the employee shall reemploy the employee for:

- (1) a period of employment required by the federal Uniform Services Employment and Reemployment Rights Act, 38 U.S.C. 4301 through 38 U.S.C. 4330; and
- (2) an additional period that equals the period the employee was on active duty status to the extent the period of the employee's active duty status exceeds the period determined under subdivision (1).

(b) Reemployment under subsection (a) shall be covered by the provisions of the federal Uniform Services Employment and Reemployment Rights Act, 38 U.S.C. 4301 through 38 U.S.C. 4330.

(c) The period of reemployment under subsection (a) begins on the first day the employee reports to work for the employer after the employee's discharge or release from active duty.

Sec. 9. An employer who reemploys an employee under section 8 of this chapter is entitled to a deduction from the employer's adjusted gross income under IC 6-3-2-20.

Sec. 10. This chapter may not be construed as a restriction or limitation on any of the rights, benefits, and protections granted to a member of the national guard under federal law.

SECTION 2. IC 20-12-74-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8. (a)** This section applies to a person called to active duty after September 11, 2001.

(b) As used in this section, "active duty" means full-time service in the national guard (as defined in IC 10-16-1-13) that exceeds thirty (30) consecutive days in a calendar year.

(c) A person who:

- (1) is called to active duty; and
- (2) meets the requirements of subsection (d);

is entitled to an extension of time under subsection (e) to renew a tuition scholarship awarded under section 7(a) of this chapter.

(d) A person must meet the following requirements to receive an extension of time under subsection (c):

- (1) On the date the person is called to active duty, the

person must be attending a state educational institution using a tuition scholarship awarded under section 7(a) of this chapter.

(2) The person must provide proof of active duty by providing a copy of the person's:

- (A) discharge; or
- (B) government movement orders;

to the commission at the time the person applies for renewal of the tuition scholarship awarded under section 7(a) of this chapter.

(3) Not later than one hundred eighty (180) days after the person's discharge or release from active duty, the person must resume the course of study in which the person was enrolled when the person was called to active duty.

(e) The extension of time to which a person is entitled under subsection (c) is equal in length to the period during which the person was on active duty status. However, the number of semesters for which a person may receive a tuition scholarship awarded under section 7(a) of this chapter, including all renewals under this section, may not exceed the number specified in section 7(b) of this chapter.

(f) A person who, at the time the person was called to active duty:

- (1) met the eligibility criteria established by:

- (A) this chapter; and
- (B) the commission; and

- (2) had received a tuition scholarship under section 7(a) of this chapter;

may use the extension of time under subsection (c) to renew the tuition scholarship without meeting the requirements set forth in sections 2(1) and 3(4) of this chapter.

(g) This section may not be construed as a restriction or limitation on any of the rights, benefits, and protections granted to a member of the national guard (as defined in IC 10-16-1-13) under federal law.

SECTION 3. An emergency is declared for this act.

(Reference is to EHB 1097 as reprinted April 9, 2005.)

WOODRUFF	FORD
MAHERN	MRVAN
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 8:00 p.m. with the Speaker in the Chair.

Representatives Buell, Espich, Friend, Lehe, Stutzman, VanHaaften and members of the Committee on Rules and Legislative Procedures, Representatives T. Brown, Foley, Frizzell, E. Harris, Oxley, Pelath, Stilwell, Turner, and Whetstone, who had been excused, were present. Representative Kromkowski was excused.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has concurred in the House amendments to Engrossed Senate Bill 452.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed Senate Bill 298.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on

Engrossed Senate Bill 498.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed Senate Bill 529.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed Senate Bill 590.

MARY C. MENDEL
Principal Secretary of the Senate

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT EHB 1120-1; filed April 29, 2005, at 7:21 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1120 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-4-11-15.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 15.6. In addition to the powers listed in section 15 of this chapter, the authority may:**

(1) issue bonds under terms and conditions determined by the authority and use the proceeds of the bonds to acquire obligations issued by any entity authorized to acquire, finance, construct, or lease capital improvements under IC 5-1-17; and

(2) Issue bonds under terms and conditions determined by the authority and use the proceeds of the bonds to acquire any obligations issued by the northwest Indiana regional development authority established by IC 36-7.5-2-1.

SECTION 2. IC 4-4-11-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 16. (a) There is created an industrial development project guaranty fund which shall be used by the authority as a nonlapsing, revolving fund for carrying out the provisions of the guaranty program. The industrial development project guaranty fund shall consist of such money as may be appropriated by the general assembly. To this sum shall be charged those expenses of the authority attributable and allocated by the authority to the authority's guaranty program, including interest, principal, and lease payments required by loan or lease defaults under the authority's guaranty program, and to the sum shall be credited that income of the authority attributable and allocated by the authority to the authority's guaranty program, including guarantee premiums.

(b) If the authority makes a written finding that the guarantee of a particular loan secured by, or lease of, real property or tangible or intangible personal property to or for the benefit of any industrial development project, mining operation, or agricultural operation that involves the processing of agricultural products would tend to accomplish the purposes of this chapter, including the creation or retention of employment in Indiana through the guarantee of the loan or lease, and if the authority shall further find that the proposed borrower or lessee cannot obtain the loan or lease upon reasonable terms, the authority may, under its guaranty program, guarantee the loan or lease upon such terms and conditions as the authority may prescribe. No new or additional guarantee of a loan or lease under this

subsection or subsection (c) or (h) may be entered into if the guarantee would cause the outstanding aggregate guarantee obligations with respect to all loans and leases guaranteed under this subsection and subsections (c) and (h) to exceed eight (8) times the amount of money in the industrial development project guaranty fund. The amount of all guarantees by the authority of loans or leases to or for the benefit of any single industrial development project, mining operation, or agricultural operation that involves the processing of agricultural products shall not exceed two million dollars (\$2,000,000), less the outstanding aggregate principal balance under any loans made and owed to the authority under subsection (h) to or for the benefit of the project or operation. A guarantee of either a loan secured by real estate or a real estate lease shall not exceed ninety percent (90%) of the unpaid principal balance of the loan from time to time outstanding or ninety percent (90%) of the amount of any lease payment, as applicable, or ninety percent (90%) of the appraised fair market value of the real estate, whichever is less. A guarantee of a loan secured by personal property or of a personal property lease shall not exceed seventy-five percent (75%) of the unpaid principal balance of the loan from time to time outstanding or seventy-five percent (75%) of the amount of any lease payment, as applicable, or seventy-five percent (75%) of the fair market value of the personal property, whichever is less. A guarantee involving both real estate and personal property may not exceed the percentage proportionate to each type of property. To be eligible for a guarantee under this section, subsection, a loan or lease must:

(1) be one which is to be made to and held by a lender or lessor approved by the authority as responsible and able to service the loan or lease properly;

(2) involve a principal obligation or lease payments, as applicable, which may include initial service charges and appraisal, inspection, and other fees approved by the authority;

(3) have a maturity or term satisfactory to the authority but in no case later than twenty (20) years from the date of the guaranty;

(4) contain payment terms satisfactory to the authority requiring periodic payments by the developer or user which shall include principal and interest payments, cost of local property taxes and assessments, land lease rentals, if any, insurance on the property, as applicable, and such guarantee premiums as may be fixed by the authority; and

(5) contain such terms and provisions with respect to property insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, anticipation of maturity, additional and secondary liens, and other matters as the authority may prescribe.

(c) The authority may guarantee an unsecured loan for:

(1) working capital purposes, if the authority determines, under criteria that it establishes, that the loan for working capital:

(A) is for an industrial development project, a mining operation, or an agricultural operation that involves the processing of agricultural products; and

(B) will lead directly to increased production or job creation or retention through sales of products or provision of services to federal, state, or local government, private businesses, or individuals, or through exports to foreign markets; or

(2) capital expenditures, if the authority determines, under criteria that the authority establishes, that the loan is for an industrial development project described in IC 4-4-10.9-11(b)(7).

The loan guarantee may not exceed five hundred thousand dollars (\$500,000) for any single project or operation, and may be in addition to any other guarantees of the authority under this section. The guarantee terms must include a time limit for working capital loan guarantees that may not exceed eighteen (18) months. However, the guarantees are renewable. A loan guarantee may not exceed eighty percent (80%) of the unpaid principal balance from time to time outstanding of the loan being guaranteed. The authority may impose such additional terms as it considers appropriate for any particular project or operation.

(d) The authority is authorized to fix guarantee premiums for the guarantee under this section of any loan or lease outstanding at the beginning of each year or at the time the guarantee is entered into, and

the authority is authorized to fix loan application, placement, origination, commitment, administrative, processing, or other fees or charges in connection with the authority's powers under subsection (h). These premiums, fees, or charges shall be payable in amounts or based upon formulas established by the authority and may be payable, at the election of the authority, in whole or in part, in the form of cash, shares of stock, warrants for the purchase of shares of stock, or other securities, property, or rights acceptable to the authority. These premiums, fees, or charges shall be payable by the developer or user to the authority in a manner prescribed by the authority.

(e) Notwithstanding section 19(a)(1) of this chapter, any guarantee made by the authority under subsection (b), (c), or (h) may be effected or enhanced, in whole or in part, through the provision by the authority of a letter of credit or an equivalent form of credit enhancement instrument. However, the maximum principal payment obligations of the authority under the credit instrument, as the same may be effective from time to time, is the amount of the guarantee or portion of the guarantee made under subsection (b), (c), or (h), and for purposes of the limitations on the amount of guarantees under subsection (b), (c), or (h), and the term of any letter of credit may not exceed the respective terms established for guarantees or loans under subsections (b), (c), and (h).

(f) Notwithstanding the provisions of any other law, loans or leases guaranteed or made by the authority are legal investments for all insurance companies, trust companies, banks, investment companies, savings banks, executors, trustees and other fiduciaries, and pension or retirement funds, as well as the board for depositories.

(g) To further the purposes of this chapter, and subject to this chapter, the authority may also use any part of the industrial development project guaranty fund to guarantee any bonds issued by the authority under this chapter or by any authorized issuer under IC 36-7-12. With regard to direct obligations of the authority that are also guaranteed by the authority, the authority may permit a subordination of any valid security agreement, mortgage, combinations thereof, or other appropriate documents securing the direct obligations if the authority in its discretion determines that the subordination is reasonably necessary to accomplish the objectives of the industrial development project undertaken by the authority.

(h) To further the purposes of this chapter, and in addition to the authority's other powers under this chapter, the authority may, upon a written finding as described in subsection (b), make direct loans, from money in the industrial project guaranty fund, to or for the benefit of any industrial development project, mining operation, or agricultural operation that involves the processing of agricultural products, upon the terms and conditions that the authority may prescribe. No new or additional loan may be made if the loan would cause the then outstanding aggregate guarantee obligations with respect to all loans and leases guaranteed under this subsection and subsections (b) and (c) to exceed eight (8) times the amount of money then in the industrial development project guaranty fund, or would cause the then outstanding aggregate principal balance of all loans made under this subsection and then owing to the authority to exceed twenty percent (20%) of the amount of money then in the industrial development project guaranty fund. The principal amount of such a loan to or for the benefit of a project or operation may not exceed one million dollars (\$1,000,000), less the then outstanding aggregate guarantee obligations with respect to any loans or leases guaranteed under this subsection and subsections (b) and (c) to or for the benefit of that project or operation. With respect to any loan made under this subsection, a loan agreement with the authority must contain the following terms:

- (1) A requirement that the loan proceeds be used for specified purposes consistent with and in furtherance of the purposes of the authority under this chapter.
 - (2) The term of the loan, which must not be later than twenty (20) years from the date of the loan.
 - (3) The repayment schedule.
 - (4) The interest rate or rates of the loan, which may include variations in the rate, but which may not be less than the amount necessary to cover all expenses of the authority in making the loan.
 - (5) Any other terms and provisions that the authority requires.
- In addition, a loan agreement with the authority under this subsection

may also contain a requirement that the loan be insured directly or indirectly by a loan insurer or be guaranteed by a loan guarantor, and a requirement of any other type or types of security or collateral that the authority may consider to be reasonable or necessary. A loan made under this subsection may be sold by the authority, and the authority may permit other lenders to participate in a loan made under this subsection, at the time or times and upon the terms and conditions as the authority considers reasonable or necessary. A loan sold or in which other lenders participate may be guaranteed by the authority, upon terms and conditions established by the authority.

(i) All proceeds received by the authority from the disposal by sale or in some other manner of property it may have acquired in accordance with section 15 of this chapter and in connection with its guaranty program or otherwise under this section shall be credited to the industrial development project guaranty fund.

(j) Upon the issuance of a loan or a guarantee of a loan or lease, any expenses incurred by the authority in connection with the loan or guarantee or the projects or operations for which the loan or guarantee is being made shall be reimbursed to the authority by the borrower, in the case of a loan (to the extent not provided for under subsection (d)), or by the borrower, lender, lessee, or lessor, in the case of a guarantee of a loan or lease, from the proceeds of the loan or the payments under the lease or otherwise.

SECTION 3. IC 4-4-30-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The center for coal technology research is established to perform the following duties:

- (1) Develop technologies that can use Indiana coal in an environmentally and economically sound manner.
- (2) Investigate the reuse of clean coal technology byproducts, including fly ash.
- (3) Generate innovative research in the field of coal use.
- (4) Develop new, efficient, and economical sorbents for effective control of emissions.
- (5) Investigate ways to increase coal combustion efficiency.
- (6) Develop materials that withstand higher combustion temperatures.
- (7) Carry out any other matter concerning coal technology research, including public education, as determined by the center.
- (8) Administer the Indiana coal research grant fund under IC 4-23-5.5-16.
- (9) Determine whether a building is a qualified building for purposes of a property tax deduction under IC 6-1.1-12-34.5.**

SECTION 4. IC 4-13-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The department shall, subject to this chapter, do the following:

- (1) Execute and administer all appropriations as provided by law, and execute and administer all provisions of law that impose duties and functions upon the executive department of government, including executive investigation of state agencies supported by appropriations and the assembly of all required data and information for the use of the executive department and the legislative department.
- (2) Supervise and regulate the making of contracts by state agencies.
- (3) Perform the property management functions required by IC 4-20.5-6.
- (4) Assign office space and storage space for state agencies in the manner provided by IC 4-20.5-5.
- (5) Maintain and operate the following for state agencies:
 - (A) Central duplicating.
 - (B) Printing.
 - (C) Machine tabulating.
 - (D) Mailing services.
 - (E) Centrally available supplemental personnel and other essential supporting services.
 - (F) Information services.
 - (G) Telecommunication services.

The department may require state agencies to use these general services in the interests of economy and efficiency. The general services rotary fund, the telephone rotary fund, and the data processing rotary fund are established through which these

services may be rendered to state agencies. The budget agency shall determine the amount for each rotary fund.

(6) Control and supervise the acquisition, operation, maintenance, and replacement of state owned vehicles by all state agencies. The department may establish and operate, in the interest of economy and efficiency, a motor vehicle pool, and may finance the pool by a rotary fund. The budget agency shall determine the amount to be deposited in the rotary fund.

(7) Promulgate and enforce rules relative to the travel of officers and employees of all state agencies when engaged in the performance of state business. These rules may allow reimbursement for travel expenses by any of the following methods:

(A) Per diem.

(B) For expenses necessarily and actually incurred.

(C) Any combination of the methods in clauses (A) and (B). The rules must require the approval of the travel by the commissioner and the head of the officer's or employee's department prior to payment.

(8) Administer IC 4-13.6.

(9) Prescribe the amount and form of certified checks, deposits, or bonds to be submitted in connection with bids and contracts when not otherwise provided for by law.

(10) Rent out, with the approval of the governor, any state property, real or personal:

(A) not needed for public use; or

(B) for the purpose of providing services to the state or employees of the state;

the rental of which is not otherwise provided for or prohibited by law. Property may not be rented out under this subdivision for a term exceeding ten (10) years at a time. However, if property is rented out for a term of more than four (4) years, the commissioner must make a written determination stating the reasons that it is in the best interests of the state to rent property for the longer term. This subdivision does not include the power to grant or issue permits or leases to explore for or take coal, sand, gravel, stone, gas, oil, or other minerals or substances from or under the bed of any of the navigable waters of the state or other lands owned by the state.

(11) Have charge of all central storerooms, supply rooms, and warehouses established and operated by the state and serving more than one (1) agency.

(12) Enter into contracts and issue orders for printing as provided by IC 4-13-4.1.

(13) Sell or dispose of surplus property under IC 5-22-22, or if advantageous, to exchange or trade in the surplus property toward the purchase of other supplies, materials, or equipment, and to make proper adjustments in the accounts and inventory pertaining to the state agencies concerned.

(14) With respect to power, heating, and lighting plants owned, operated, or maintained by any state agency:

(A) inspect;

(B) regulate their operation; and

(C) recommend improvements to those plants to promote economical and efficient operation.

(15) Administer, determine salaries, and determine other personnel matters of the department of correction ombudsman bureau established by IC 4-13-1.2-3.

(16) Adopt policies and standards for making state owned property reasonably available to be used free of charge as locations for making motion pictures.

SECTION 5. IC 4-33-12.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 12.5. Distribution of Admissions Tax Revenue to Certain Municipalities

Sec. 1. As used in this chapter, "construction" has the meaning set forth in IC 8-14-1-1(4).

Sec. 2. As used in this chapter, "eligible municipalities" means the following cities and towns located in Lake County:

(1) Cedar Lake.

(2) Crown Point.

(3) Dyer.

(4) Griffith.

(5) Highland.

(6) Hobart.

(7) Lake Station.

(8) Lowell.

(9) Merrillville.

(10) Munster.

(11) New Chicago.

(12) St. John.

(13) Schererville.

(14) Schneider.

(15) Winfield.

(16) Whiting.

Sec. 3. As used in this chapter, "highways" has the meaning set forth in IC 8-14-1-1(3).

Sec. 4. As used in this chapter, "maintenance" has the meaning set forth in IC 8-14-1-1(6).

Sec. 5. As used in this chapter, "reconstruction" has the meaning set forth in IC 8-14-1-1(5).

Sec. 6. (a) The county described in IC 4-33-12-6(d) shall distribute twenty-five percent (25%) of the:

(1) admissions tax revenue received by the county under IC 4-33-12-6(d)(2); and

(2) supplemental distributions received under IC 4-33-13-5(g);

to the eligible municipalities.

(b) The amount that shall be distributed by the county to each eligible municipality under subsection (a) is based on the eligible municipality's proportionate share of the total population of all eligible municipalities. The most current certified census information available shall be used to determine an eligible municipality's proportionate share under this subsection. The determination of proportionate shares under this subsection shall be modified under the following conditions:

(1) The certification from any decennial census completed by the United States Bureau of the Census.

(2) Submission by one (1) or more eligible municipalities of a certified special census commissioned by an eligible municipality and performed by the United States Bureau of the Census.

(c) If proportionate shares are modified under subsection (b), distribution to eligible municipalities shall change with the:

(1) payments beginning April 1 of the year following the certification of a special census under subsection (b)(2); and

(2) the next quarterly payment following the certification of a decennial census under subsection (b)(1).

Sec. 7. The county shall make payments under this chapter directly to each eligible municipality. The county shall make payments to the eligible municipalities not more than thirty (30) days after the county receives the quarterly distribution of admission tax revenue under IC 4-33-12-6 or the supplemental distributions received under IC 4-33-13-5(g) from the state.

Sec. 8. An eligible municipality may use money received from the county under this chapter only for the following infrastructure improvements:

(1) Construction, reconstruction, repair, maintenance, oiling, and sprinkling of highways and curbs.

(2) Separation of the grades of crossing of highways and railroads.

(3) Engineering, land acquisition, construction, resurfacing, maintenance, restoration, and rehabilitation of both local and arterial road and street systems.

(4) Payment of principal and interest on bonds sold primarily to finance road, street, or thoroughfare projects.

(5) Local costs required to undertake a recreational or reservoir road project under IC 8-23-5.

(6) Construction, equipment, remodeling, extension, repair, and betterment of structures, including the following:

(A) Sanitary sewers and sanitary sewer tap-ins.

(B) Sidewalks.

(C) Curbs.

(D) Streets.

(E) Alleys.

(F) Pedestrian-ways or malls set aside entirely, partly, or

during restricted hours, for pedestrian traffic rather than vehicular traffic.

(G) Other paved public places.

(H) Parking facilities.

(I) Lighting.

(J) Electric signals.

(K) Landscaping, including trees, shrubbery, flowers, grass, fountains, benches, statues, floodlighting, gas lighting, and structures of a decorative, an educational, or a historical nature.

(7) Sewage works, including the following:

(A) Sewage treatment plants.

(B) Intercepting sewers.

(C) Main sewers.

(D) Submain sewers.

(E) Local sewers.

(F) Lateral sewers.

(G) Outfall sewers.

(H) Storm sewers.

(I) Force mains.

(J) Pumping stations.

(K) Ejector stations.

(L) Any other structures necessary or useful for the collection, treatment, purification, and sanitary disposal of the liquid waste, solid waste, sewage, storm drainage, and other drainage of a municipality.

SECTION 6. IC 5-1-17 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]:

Chapter 17. Indiana Stadium and Convention Building Authority

Sec. 1. As used in this chapter, "authority" refers to the Indiana stadium and convention building authority created by this chapter.

Sec. 2. As used in this chapter, "board" refers to the board of directors of the authority.

Sec. 3. As used in this chapter, "bonds" means bonds, notes, commercial paper, or other evidences of indebtedness. The term includes obligations (as defined in IC 8-9.5-9-3) and swap agreements (as defined in IC 8-9.5-9-4).

Sec. 4. As used in this chapter, "capital improvement board" refers to a capital improvement board of managers created by IC 36-10-8 or IC 36-10-9.

Sec. 5. As used in this chapter, "state agency" has the meaning set forth in IC 4-13.5-1-1.

Sec. 6. An Indiana stadium and convention building authority is created in Indiana as a separate body corporate and politic as an instrumentality of the state to acquire, construct, equip, own, lease, and finance facilities for lease to or for the benefit of a capital improvement board.

Sec. 7. (a) The board is composed of the following seven (7) members, who must be residents of Indiana:

(1) Four (4) members appointed by the governor. The president pro tempore of the senate and the speaker of the house of representatives may each make one (1) recommendation to the governor concerning the appointment of a member under this subdivision.

(2) Two (2) members appointed by the executive of a county having a consolidated city.

(3) One (1) member appointed by the governor, who has been nominated by the county fiscal body of a county that is contiguous to a county having a consolidated city, determined as follows:

(A) The member nominated for the initial term shall be nominated by the contiguous county that has the largest population of all the contiguous counties that have adopted an ordinance to impose a food and beverage tax under IC 6-9-35.

(B) The member nominated for each successive term shall be nominated by the contiguous county that:

(i) contributed the most revenues from the tax imposed by IC 6-9-35 to the capital improvement board of managers created by IC 36-10-9-3 in the immediately previous calendar year; and

(ii) has not previously made a nomination to the governor or, if all the contributing counties have previously made such a nomination, is the one whose then most recent nomination occurred before those of all the other contributing counties.

(b) A member appointed under subsection (a)(1) through (a)(2) is entitled to serve a three (3) year term. A member appointed under subsection (a)(3) is entitled to serve a one (1) year term. A member may be reappointed to subsequent terms.

(c) If a vacancy occurs on the board, the governor shall fill the vacancy by appointing a new member for the remainder of the vacated term. If the vacated member was appointed under subsection (a)(2) or (a)(3), the governor shall appoint a new member who has been nominated by the person or body who made the nomination of the vacated member.

(d) A member may be removed for cause by the appointing authority.

(e) Each member, before entering upon the duties of office, must take and subscribe an oath of office under IC 5-4-1, which shall be endorsed upon the certificate of appointment and filed with the records of the board.

(f) The governor shall nominate an executive director for the authority, subject to the veto authority of the executive of a county having a consolidated city.

Sec. 8. (a) The board shall hold an initial organizational meeting on or before June 30, 2005. Immediately after January 15 of each year, the board shall hold its annual organizational meeting.

(b) The governor shall appoint a member of the board to serve as chair of the board.

(c) The board shall elect one (1) of the members vice chair and another secretary-treasurer to perform the duties of those offices. These officers serve from the date of their election and until their successors are elected and qualified. The board may elect an assistant secretary-treasurer.

(d) Special meetings may be called by the chair of the board or any three (3) members of the board.

(e) A majority of the members constitutes a quorum, and the concurrence of a majority of the members is necessary to authorize any action.

Sec. 9. (a) The board may adopt the bylaws and rules it considers necessary for the proper conduct of its duties and the safeguarding of the funds and property entrusted to its care.

(b) The board shall, without complying with IC 4-22-2, adopt the code of ethics in executive order 05-12 for its members and employees.

Sec. 10. The authority is organized for the following purposes:

(1) Acquiring, financing, constructing, and leasing land and capital improvements to or for the benefit of a capital improvement board.

(2) Financing and constructing additional improvements to capital improvements owned by the authority and leasing them to or for the benefit of a capital improvement board.

(3) Acquiring land or all or a portion of one (1) or more capital improvements from a capital improvement board by purchase or lease and leasing the land or these capital improvements back to the capital improvement board, with any additional improvements that may be made to them.

(4) Acquiring all or a portion of one (1) or more capital improvements from a capital improvement board by purchase or lease to fund or refund indebtedness incurred on account of those capital improvements to enable the capital improvement board to make a savings in debt service obligations or lease rental obligations or to obtain relief from covenants that the capital improvement board considers to be unduly burdensome.

Sec. 11. (a) The authority may also:

(1) finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip land and capital improvements;

(2) lease the land or those capital improvements to a capital improvement board;

(3) sue, be sued, plead, and be impleaded;

(4) condemn, appropriate, lease, rent, purchase, and hold

any real or personal property needed or considered useful in connection with capital improvements;

(5) acquire real or personal property by gift, devise, or bequest and hold, use, or dispose of that property for the purposes authorized by this chapter;

(6) after giving notice, enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a capital improvement;

(7) design, order, contract for, and construct, reconstruct, and renovate any capital improvements or improvements thereto;

(8) employ managers, superintendents, architects, engineers, attorneys, auditors, clerks, construction managers, and other employees;

(9) make and enter into all contracts and agreements, including agreements to arbitrate, that are necessary or incidental to the performance of its duties and the execution of its powers under this chapter;

(10) acquire in the name of the authority by the exercise of the right of condemnation, in the manner provided in subsection (c), public or private lands, or rights in lands, rights-of-way, property, rights, easements, and interests, as it considers necessary for carrying out this chapter; and

(11) take any other action necessary to implement its purposes as set forth in section 10 of this chapter.

(b) The authority is subject to the provisions of 25 IAC 5 concerning equal opportunities for minority business enterprises and women's business enterprises to participate in procurement and contracting processes. In addition, the authority shall set a goal for participation by minority business enterprises of fifteen percent (15%) and women's business enterprises of five percent (5%), consistent with the goals of delivering the project on time and within the budgeted amount and, insofar as possible, using Indiana businesses for employees, goods, and services. In fulfilling the goal, the authority shall take into account historical precedents in the same market.

(c) If the authority is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes of this chapter, the authority may proceed to procure the condemnation of the property under IC 32-24-1. The authority may not institute a proceeding until the authority has adopted a resolution that:

(1) describes the real property sought to be acquired and the purpose for which the real property is to be used;

(2) declares that the public interest and necessity require the acquisition by the authority of the property involved; and

(3) sets out any other facts that the authority considers necessary or pertinent.

The resolution is conclusive evidence of the public necessity of the proposed acquisition and shall be referred to the attorney general for action, in the name of the authority, in the circuit or superior court of the county in which the real property is located.

Sec. 12. (a) Bonds issued under IC 36-10-8 or IC 36-10-9 or prior law may be refunded as provided in this section.

(b) A capital improvement board may:

(1) lease all or a portion of land or a capital improvement or improvements to the authority, which may be at a nominal lease rental with a lease back to the capital improvement board, conditioned upon the authority assuming bonds issued under IC 36-10-8 or IC 36-10-9 or prior law and issuing its bonds to refund those bonds; and

(2) sell all or a portion of land or a capital improvement or improvements to the authority for a price sufficient to provide for the refunding of those bonds and lease back the land or capital improvement or improvements from the authority.

Sec. 13. (a) Before a lease may be entered into by a capital improvement board under this chapter, the capital improvement board must find that the lease rental provided for is fair and reasonable.

(b) A lease or sublease of land or capital improvements from the authority, or from a state agency under section 26 of this chapter, to a capital improvement board:

(1) may not have a term exceeding forty (40) years;

(2) may not require payment of lease rentals for a newly

constructed capital improvement or for improvements to an existing capital improvement until the capital improvement or improvements thereto have been completed and are ready for occupancy;

(3) may contain provisions:

(A) allowing the capital improvement board to continue to operate an existing capital improvement until completion of the improvements, reconstruction, or renovation of that capital improvement or any other capital improvement; and

(B) requiring payment of lease rentals for land, for an existing capital improvement being used, reconstructed, or renovated, or for any other existing capital improvement;

(4) may contain an option to renew the lease for the same or shorter term on the conditions provided in the lease;

(5) must contain an option for the capital improvement board to purchase the capital improvement upon the terms stated in the lease:

(A) during the term of the lease for a price equal to the amount required to pay all indebtedness incurred on account of the capital improvement, including indebtedness incurred for the refunding of that indebtedness; or

(B) for one dollar (\$1) after the term of the lease, if all indebtedness incurred on account of the capital improvement, including indebtedness incurred for the refunding of that indebtedness, is no longer outstanding;

(6) may be entered into before acquisition or construction of a capital improvement;

(7) may provide that the capital improvement board shall agree to:

(A) pay all taxes and assessments thereon;

(B) maintain insurance thereon for the benefit of the authority;

(C) assume responsibility for utilities, repairs, alterations, and any costs of operation; and

(D) pay a deposit or series of deposits to the authority from any funds legally available to the capital improvement board before the commencement of the lease to secure the performance of the capital improvement board's obligations under the lease;

(8) subject to IC 36-10-8-13 and IC 36-10-9-11, may provide that the lease rental payments by the capital improvement board shall be made from:

(A) proceeds of one (1) or more of the excise taxes as defined in IC 36-10-8 or IC 36-10-9;

(B) proceeds of the county supplemental auto rental excise tax imposed under IC 6-6-9.7;

(C) that part of the proceeds of the county food and beverage tax imposed under IC 6-9-35, which the capital improvement board or its designee receives pursuant thereto;

(D) revenue captured under IC 36-7-31;

(E) net revenues of the capital improvement;

(F) any other funds available to the capital improvement board; or

(G) any combination of the sources described in clauses (A) through (F);

(9) subject to subdivision (10), must provide that the capital improvement board is solely responsible for the operation and maintenance of the capital improvement upon completion of construction, including the negotiation and maintenance of agreements with tenants or users of the capital improvement;

(10) must provide that, during the term of the lease, the authority retains the right to approve any lease agreements and amendments to any lease agreements between the capital improvement board and any National Football League franchised professional football team that will use the capital improvement;

(11) must provide that:

(A) subject to the terms of the lease, the capital improvement board will retain all revenues from

operation of the capital improvement; and

(B) the authority has no responsibility to fund the ongoing maintenance and operations of the capital improvement; and

(12) with respect to a capital improvement that is subject to the county admissions tax imposed by IC 6-9-13, must provide that upon request of the authority the capital improvement board will impose a fee:

(A) not to exceed three dollars (\$3), as determined by the authority, for each admission to a professional sporting event described in IC 6-9-13-1; and

(B) not to exceed one dollar (\$1), as determined by the authority, for each admission to any other event described in IC 6-9-13-1;

and, so long as there are any current or future obligations owed by the capital improvement board to the authority or any state agency pursuant to a lease or other agreement entered into between the capital improvement board and the authority or any state agency under section 26 of this chapter, the capital improvement board or its designee shall deposit the revenues received from the fee imposed under this subdivision in a special fund, which may be used only for the payment of the obligations described in this subdivision.

(c) A capital improvement board may designate the authority as its agent to receive on behalf of the capital improvement board any of the revenues identified in subsection (b)(8).

(d) All information prepared by the capital improvement board or a political subdivision served by the capital improvement board with respect to a capital improvement proposed to be financed under this chapter, including a construction budget and timeline, must be provided to the budget director. Any information described in this subsection that was prepared before May 15, 2005, must be provided to the budget director not later than May 15, 2005.

Sec. 14. This chapter contains full and complete authority for leases between the authority and a capital improvement board. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the board or the capital improvement board or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to enter into any lease, except as prescribed in this chapter.

Sec. 15. If the lease provides for a capital improvement or improvements thereto to be constructed by the authority, the plans and specifications shall be submitted to and approved by all agencies designated by law to pass on plans and specifications for public buildings.

Sec. 16. The authority and a capital improvement board may enter into common wall (party wall) agreements or other agreements concerning easements or licenses. These agreements shall be recorded with the recorder of the county in which the capital improvement is located.

Sec. 17. (a) A capital improvement board may lease for a nominal lease rental, or sell to the authority, one (1) or more capital improvements or portions thereof or land upon which a capital improvement is located or is to be constructed.

(b) Any lease of all or a portion of a capital improvement by a capital improvement board to the authority must be for a term equal to the term of the lease of that capital improvement back to the capital improvement board.

(c) A capital improvement board may sell property to the authority.

Sec. 18. (a) Subject to subsection (h), the authority may issue bonds for the purpose of obtaining money to pay the cost of:

(1) acquiring real or personal property, including existing capital improvements;

(2) constructing, improving, reconstructing, or renovating one (1) or more capital improvements; or

(3) funding or refunding bonds issued under IC 36-10-8 or IC 36-10-9 or prior law.

(b) The bonds are payable from the lease rentals from the lease of the capital improvements for which the bonds were issued, insurance proceeds, and any other funds pledged or available.

(c) The bonds shall be authorized by a resolution of the board.

(d) The terms and form of the bonds shall either be set out in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds shall mature within forty (40) years.

(f) The board shall sell the bonds at public or private sale upon the terms determined by the board.

(g) All money received from any bonds issued under this chapter shall be applied to the payment of the cost of the acquisition or construction, or both, of capital improvements, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

(1) planning and development of the facility and all buildings, facilities, structures, and improvements related to it;

(2) acquisition of a site and clearing and preparing the site for construction;

(3) equipment, facilities, structures, and improvements that are necessary or desirable to make the capital improvement suitable for use and operations;

(4) architectural, engineering, consultant, and attorney's fees;

(5) incidental expenses in connection with the issuance and sale of bonds;

(6) reserves for principal and interest;

(7) interest during construction;

(8) financial advisory fees;

(9) insurance during construction;

(10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and

(11) in the case of refunding or refinancing, payment of the principal of, redemption premiums (if any) for, and interest on, the bonds being refunded or refinanced.

(h) The authority may not issue bonds under this chapter unless the authority first finds that the following conditions are met:

(1) Each contract or subcontract for the construction of a facility and all buildings, facilities, structures, and improvements related to that facility to be financed in whole or in part through the issuance of the bonds:

(A) requires payment of the common construction wage required by IC 5-16-7; and

(B) requires the contractor or subcontractor to enter into a project labor agreement as a condition of being awarded and performing work on the contract.

(2) The capital improvement board and the authority have entered into a written agreement concerning the terms of the financing of the facility. This agreement must include the following provisions:

(A) Notwithstanding any other law, if the capital improvement board selected a construction manager and an architect for a facility before May 15, 2005, the authority will contract with that construction manager and architect and use plans as developed by that construction manager and architect. In addition, any other agreements entered into by the capital improvement board or a political subdivision served by the capital improvement board with respect to the design and construction of the facility will be reviewed by a selection committee consisting of:

(i) two (2) of the members appointed to the board of directors of the authority under section 7(a)(1) of this chapter, as designated by the governor;

(ii) the two (2) members appointed to the board of directors of the authority under section 7(a)(2) of this chapter; and

(iii) the executive director of the authority.

The selection committee is not bound by any prior commitments of the capital improvement board or the political subdivision, other than the general project design, and will approve all contracts necessary for the design and construction of the facility.

(B) If before May 15, 2005, the capital improvement

board acquired any land, plans, or other information necessary for the facility and the board had budgeted for these items, the capital improvement board will transfer the land, plans, or other information useful to the authority for a price not to exceed the lesser of:

- (i) the actual cost to the capital improvement board; or
- (ii) three million five hundred thousand dollars (\$3,500,000).

(C) The capital improvement board agrees to take any legal action that the authority considers necessary to facilitate the financing of the facility, including entering into agreements during the design and construction of the facility or a sublease of a capital improvement to any state agency that is then leased by the authority to any state agency under section 26 of this chapter.

(D) The capital improvement board is prohibited from taking any other action with respect to the financing of the facility without the prior approval of the authority. The authority is not bound by the terms of any agreement entered into by the capital improvement board with respect to the financing of the facility without the prior approval of the authority.

(E) As the project financier, the Indiana development finance authority (or its successor agency) and the public finance director will be responsible for selecting all investment bankers, bond counsel, trustees, and financial advisors.

(F) The capital improvement board agrees to deliver to the authority the one hundred million dollars (\$100,000,000) that is owed to the capital improvement board, the consolidated city, or the county having a consolidated city pursuant to an agreement between the National Football League franchised professional football team and the capital improvement board, the consolidated city, or the county. This amount shall be applied to the cost of construction for the stadium part of the facility. This amount does not have to be delivered until a lease is entered into for the stadium between the authority and the capital improvement board.

(G) The authority agrees to consult with the staff of the capital improvement board on an as needed basis during the design and construction of the facility, and the capital improvement board agrees to make its staff available for this purpose.

(H) The authority, the county, the consolidated city, the capital improvement board and the National Football League franchised professional football team must commit to using their best efforts to assist and cooperate with one another to design and construct the facility on time and on budget.

(3) The capital improvement board and the National Football League franchised professional football team have entered into a lease for the stadium part of the facility that has been approved by the authority and has a term of at least thirty (30) years.

Sec. 19. This chapter contains full and complete authority for the issuance of bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the board or any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to issue any bonds, except as prescribed in this chapter.

Sec. 20. Bonds issued under this chapter are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under Indiana law.

Sec. 21. (a) The authority may secure bonds issued under this chapter by a trust indenture between the authority and a corporate trustee, which may be any trust company or national or state bank within Indiana that has trust powers.

(b) The trust indenture may:

- (1) pledge or assign lease rentals, receipts, and income from leased capital improvements, but may not mortgage land or capital improvements;
- (2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the authority and board;
- (3) set forth the rights and remedies of bondholders and trustee; and
- (4) restrict the individual right of action of bondholders.

(c) Any pledge or assignment made by the authority under this section is valid and binding from the time that the pledge or assignment is made, against all persons whether or not they have notice of the lien. Any trust indenture by which a pledge is created or an assignment made need not be filed or recorded. The lien is perfected against third parties by filing the trust indenture in the records of the board.

Sec. 22. If a capital improvement board exercises its option to purchase leased property, it may issue its bonds as authorized by statute.

Sec. 23. All:

- (1) property owned by the authority;
- (2) revenues of the authority; and
- (3) bonds issued by the authority, the interest on the bonds, the proceeds received by a holder from the sale of bonds to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, proceeds received at maturity, and the receipt of interest in proceeds; are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

Sec. 24. Any action to contest the validity of bonds to be issued under this chapter may not be brought after the fifteenth day following:

- (1) the receipt of bids for the bonds, if the bonds are sold at public sale; or
- (2) the publication one (1) time in a newspaper of general circulation published in the county of notice of the execution and delivery of the contract for the sale of bonds;

whichever occurs first.

Sec. 25. The authority shall not issue bonds in a principal amount exceeding five hundred million dollars (\$500,000,000) to finance any capital improvement in a county having a consolidated first class city unless:

- (1) on or before June 30, 2005, the county fiscal body:
 - (A) increases the rate of the tax authorized by IC 6-6-9.7 by the maximum amount authorized by IC 6-6-9.7-7(c);
 - (B) increases the rate of the tax authorized by IC 6-9-8 by the maximum amount authorized by IC 6-9-8-3(d);
 - (C) increases the rate of tax authorized by IC 6-9-12 by the maximum amount authorized by IC 6-9-12-5(b); and
 - (D) increases the rate of the tax authorized by IC 6-9-13 by the maximum amount authorized by IC 6-9-13-2(b); and

- (2) on or before October 1, 2005, the budget director makes a determination under IC 36-7-31-14.1 to increase the amount of money captured in a tax area established under IC 36-7-31 by up to eleven million dollars (\$11,000,000) per year, commencing July 1, 2007.

Sec. 26. (a) Notwithstanding any other law, any capital improvement that may be leased by the authority to a capital improvement board under this chapter may also be leased by the authority to any state agency to accomplish the purposes of this chapter. Any lease between the authority and a state agency under this chapter:

- (1) must set forth the terms and conditions of the use and occupancy under the lease;
- (2) must set forth the amounts agreed to be paid at stated intervals for the use and occupancy under the lease;
- (3) must provide that the state agency is not obligated to continue to pay for the use and occupancy under the lease but is instead required to vacate the facility if it is shown that the terms and conditions of the use and occupancy and

the amount to be paid for the use and occupancy are unjust and unreasonable considering the value of the services and facilities thereby afforded;

(4) must provide that the state agency is required to vacate the facility if funds have not been appropriated or are not available to pay any sum agreed to be paid for use and occupancy when due;

(5) may provide for such costs as maintenance, operations, taxes, and insurance to be paid by the state agency;

(6) may contain an option to renew the lease;

(7) may contain an option to purchase the facility for an amount equal to the amount required to pay the principal and interest of indebtedness of the authority incurred on account of the facility and expenses of the authority attributable to the facility;

(8) may provide for payment of sums for use and occupancy of an existing capital improvement being used by the state agency, but may not provide for payment of sums for use and occupancy of a new capital improvement until the construction of the capital improvement or portion thereof has been completed and the new capital improvement or a portion thereof is available for use and occupancy by the state agency; and

(9) may contain any other provisions agreeable to the authority and the state agency.

(b) Any state agency that leases a capital improvement from the authority under this chapter may sublease the capital improvement to a capital improvement board under the terms and conditions set forth in section 13(a) of this chapter, section 13(b)(1) through 13(b)(4) of this chapter, section 13(b)(6) through 13(b)(8) of this chapter, and section 13(c) of this chapter.

(c) Notwithstanding any other law, in anticipation of the construction of any capital improvement and the lease of that capital improvement by the authority to a state agency, the authority may acquire an existing facility owned by the state agency and then lease the facility to the state agency. A lease made under this subsection shall describe the capital improvement to be constructed and may provide for the payment of rent by the state agency for the use of the existing facility. If such rent is to be paid pursuant to the lease, the lease shall provide that upon completion of the construction of the capital improvement, the capital improvement shall be substituted for the existing facility under the lease. The rent required to be paid by the state agency pursuant to the lease shall not constitute a debt of the state for purposes of the Constitution of the State of Indiana. A lease entered into under this subsection is subject to the same requirements for a lease entered into under subsection (a) with respect to both the existing facility and the capital improvement anticipated to be constructed.

(d) This chapter contains full and complete authority for leases between the authority and a state agency and subleases between a state agency and a capital improvement board. No laws, procedures, proceedings, publications, notices, consents, approvals, orders, or acts by the board, the governing body of any state agency or the capital improvement board or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to enter into any such lease or sublease, except as prescribed in this chapter.

Sec. 27. In order to enable the authority to lease a capital improvement or existing facility to a state agency under section 26 of this chapter, the governor may convey, transfer, or sell, with or without consideration, real property (including the buildings, structures, and improvements), title to which is held in the name of the state, to the authority, without being required to advertise or solicit bids or proposals, in order to accomplish the governmental purposes of this chapter.

Sec. 28. If the authority enters into a lease with a capital improvement board under section 13 of this chapter or a state agency under section 26 of this chapter, which then enters into a sublease with a capital improvement board under section 26(b) of this chapter, and the rental payments owed by the capital improvement board to the authority under the lease or to the state agency under the sublease are payable from the taxes described in section 25 of this chapter or from the taxes

authorized under IC 6-9-35, the budget director may choose the designee of the capital improvement board, which shall receive and deposit the revenues derived from such taxes. The designee shall hold the revenues on behalf of the capital improvement board pursuant to an agreement between the authority and the capital improvement board or between a state agency and the capital improvement board. The agreement shall provide for the application of the revenues in a manner that does not adversely affect the validity of the lease or the sublease, as applicable.

SECTION 7. IC 5-28-15-3, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 3. As used in this chapter, "zone business" means an entity that accesses at least one (1) tax credit, deduction, or exemption incentive available under this chapter, IC 6-1.1-20.8, ~~or~~ IC 6-1.1-45, IC 6-3-3-10, IC 6-3.1-7, or IC 6-3.1-10.

SECTION 8. IC 5-28-15-5, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The board has the following powers, in addition to other powers that are contained in this chapter:

(1) To review and approve or reject all applicants for enterprise zone designation, according to the criteria for designation that this chapter provides.

(2) To waive or modify rules as provided in this chapter.

(3) To provide a procedure by which enterprise zones may be monitored and evaluated on an annual basis.

(4) To adopt rules for the disqualification of a zone business from eligibility for any or all incentives available to zone businesses, if that zone business does not do one (1) of the following:

(A) If all its incentives, as contained in the summary required under section 7 of this chapter, exceed one thousand dollars (\$1,000) in any year, pay a registration fee to the board in an amount equal to one percent (1%) of all its incentives.

(B) Use all its incentives, except for the amount of the registration fee, for its property or employees in the zone.

(C) Remain open and operating as a zone business for twelve (12) months of the assessment year for which the incentive is claimed.

(5) To disqualify a zone business from eligibility for any or all incentives available to zone businesses in accordance with the procedures set forth in the board's rules.

(6) After a recommendation from a U.E.A., to modify an enterprise zone boundary if the board determines that the modification:

(A) is in the best interests of the zone; and

(B) meets the threshold criteria and factors set forth in section 9 of this chapter.

(7) To employ staff and contract for services.

(8) To receive funds from any source and expend the funds for the administration and promotion of the enterprise zone program.

(9) To make determinations under IC 6-3.1-11 concerning the designation of locations as industrial recovery sites and the availability of the credit provided by IC 6-1.1-20.7 to persons owning inventory located on an industrial recovery site.

(10) To make determinations under IC 6-1.1-20.7 and IC 6-3.1-11 concerning the disqualification of persons from claiming credits provided by those chapters in appropriate cases.

(11) To make determinations under IC 6-3.1-11.5 concerning the designation of locations as military base recovery sites and the availability of the credit provided by IC 6-3.1-11.5 to persons making qualified investments in military base recovery sites.

(12) To make determinations under IC 6-3.1-11.5 concerning the disqualification of persons from claiming the credit provided by IC 6-3.1-11.5 in appropriate cases.

(b) In addition to a registration fee paid under subsection (a)(4)(A), each zone business that receives ~~a credit under an incentive described in section 3 of this chapter~~ shall assist the zone U.E.A. in an amount determined by the legislative body of the municipality in which the zone is located. If a zone business does not assist a U.E.A.,

the legislative body of the municipality in which the zone is located may pass an ordinance disqualifying a zone business from eligibility for all credits or incentives available to zone businesses. If a legislative body disqualifies a zone business under this subsection, the legislative body shall notify the board, the department of local government finance, and the department of state revenue in writing not more than thirty (30) days after the passage of the ordinance disqualifying the zone business. Disqualification of a zone business under this section is effective beginning with the taxable year in which the ordinance disqualifying the zone business is adopted.

SECTION 9. IC 5-28-15-6, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The enterprise zone fund is established within the state treasury.

(b) The fund consists of:

- (1) the revenue from the registration fee required under section 5 of this chapter; and
- (2) appropriations from the general assembly.

(c) The corporation shall administer the fund. The fund may be used to:

- (1) pay the expenses of administering the fund;
- (2) pay nonrecurring administrative expenses of the enterprise zone program; ~~and~~
- (3) provide grants to U.E.A.s for brownfield remediation in enterprise zones; ~~and~~
- (4) **pay administrative expenses of urban enterprise associations.**

However, money in the fund may not be expended unless it has been appropriated by the general assembly and allotted by the budget agency.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the state general fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund. The corporation shall develop appropriate applications and may develop grant allocation guidelines, without complying with IC 4-22-2, for awarding grants under this subsection. The grant allocation guidelines must take into consideration the competitive impact of brownfield redevelopment plans on existing zone businesses.

SECTION 10. IC 6-1.1-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 11. (a) Subject to the limitation contained in subsection (b), "personal property" means:

- (1) nursery stock that has been severed from the ground;
- (2) florists' stock of growing crops which are ready for sale as pot plants on benches;
- (3) billboards and other advertising devices which are located on real property that is not owned by the owner of the devices;
- (4) motor vehicles, mobile houses, airplanes, boats not subject to the boat excise tax under IC 6-6-11, and trailers not subject to the trailer tax under IC 6-6-5;
- (5) foundations (other than foundations which support a building or structure) on which machinery or equipment is installed; and
- (6) all other tangible property (other than real property) which is being:
 - (A) held for sale in the ordinary course of a trade or business;
 - (B) held, used, or consumed in connection with the production of income; or
 - (C) held as an investment.

(b) Personal property does not include **the following**:

- (1) Commercially planted and growing crops while they are in the ground.
- (2) **Computer application software that is not held as inventory (as defined in IC 6-1.1-3-11).**

SECTION 11. IC 6-1.1-12-34.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 34.5. (a) As used in this section, "coal combustion product" has the meaning set forth in IC 6-1.1-44-1.

(b) As used in this section, "qualified building" means a

building designed and constructed to systematically use qualified materials throughout the building.

(c) For purposes of this section, building materials are "qualified materials" if at least sixty percent (60%) of the materials' dry weight consists of coal combustion products.

(d) The owner of a qualified building, as determined by the center for coal technology research, is entitled to a property tax deduction for not more than three (3) years. The amount of the deduction equals the product of:

- (1) the assessed value of the qualified building; multiplied by
- (2) five percent (5%).

SECTION 12. IC 6-1.1-12-35.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 35.5. (a) Except as provided in section 36 of this chapter, a person who desires to claim the deduction provided by section 31, 33, ~~or 34~~, **or 34.5** of this chapter must file a certified statement in duplicate, on forms prescribed by the department of local government finance, and proof of certification under subsection (b) **or (f)** with the auditor of the county in which the property for which the deduction is claimed is subject to assessment. Except as provided in subsection (e), with respect to property that is not assessed under IC 6-1.1-7, the person must file the statement between March 1 and May 10, inclusive, of the assessment year. The person must file the statement in each year for which ~~he the person~~ desires to obtain the deduction. With respect to a property which is assessed under IC 6-1.1-7, the person must file the statement between January 15 and March 31, inclusive, of each year for which ~~he the person~~ desires to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. On verification of the statement by the assessor of the township in which the property for which the deduction is claimed is subject to assessment, the county auditor shall allow the deduction.

(b) **This subsection does not apply to an application for a deduction under section 34.5 of this chapter.** The department of environmental management, upon application by a property owner, shall determine whether a system or device qualifies for a deduction provided by section 31, 33, or 34 of this chapter. If the department determines that a system or device qualifies for a deduction, it shall certify the system or device and provide proof of the certification to the property owner. The department shall prescribe the form and manner of the certification process required by this subsection.

(c) **This subsection does not apply to an application for a deduction under section 34.5 of this chapter.** If the department of environmental management receives an application for certification before April 10 of the assessment year, the department shall determine whether the system or device qualifies for a deduction before May 10 of the assessment year. If the department fails to make a determination under this subsection before May 10 of the assessment year, the system or device is considered certified.

(d) A denial of a deduction claimed under section 31, 33, ~~or 34~~, **or 34.5** of this chapter may be appealed as provided in IC 6-1.1-15. The appeal is limited to a review of a determination made by the township assessor, county property tax assessment board of appeals, or department of local government finance.

(e) A person who timely files a personal property return under IC 6-1.1-3-7(a) for an assessment year and who desires to claim the deduction provided in section 31 of this chapter for property that is not assessed under IC 6-1.1-7 must file the statement described in subsection (a) between March 1 and May 15, inclusive, of that year. A person who obtains a filing extension under IC 6-1.1-3-7(b) for an assessment year must file the application between March 1 and the extended due date for that year.

(f) **This subsection applies only to an application for a deduction under section 34.5 of this chapter.** The center for coal technology research established by IC 4-4-30-5, upon receiving an application from the owner of a building, shall determine whether the building qualifies for a deduction under section 34.5 of this chapter. If the center determines that a building qualifies for a deduction, the center shall certify the building and provide proof of the certification to the owner of the building. The center shall prescribe the form and procedure for certification of buildings under this subsection. If the center receives an

application for certification of a building under section 34.5 of this chapter before April 10 of an assessment year:

- (1) the center shall determine whether the building qualifies for a deduction before May 10 of the assessment year; and
- (2) if the center fails to make a determination before May 10 of the assessment year, the building is considered certified.

SECTION 13. IC 6-1.1-12-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 36. (a) A person who receives a deduction provided under section 26, 29, 33, 34, 34.5, or 38 of this chapter for a particular year and who remains eligible for the deduction for the following year is not required to file a statement to apply for the deduction for the following year.

(b) A person who receives a deduction provided under section 26, 29, 33, 34, 34.5, or 38 of this chapter for a particular year and who becomes ineligible for the deduction for the following year shall notify the auditor of the county in which the real property or mobile home for which ~~he~~ the person received the deduction is located of ~~his~~ the person's ineligibility before March 31 of the year for which ~~he~~ the person becomes ineligible.

(c) The auditor of each county shall, in a particular year, apply a deduction provided under section 26, 29, 33, 34, 34.5, or 38 of this chapter to each person who received the deduction in the preceding year unless the auditor determines that the person is no longer eligible for the deduction.

SECTION 14. IC 6-1.1-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) Annually, after November 10th but ~~prior to before~~ August 1st of the succeeding year, each county treasurer shall serve a written demand upon each county resident who is delinquent in the payment of personal property taxes. ~~Annually, after May 10 but before October 31 of the same year, each county treasurer may serve a written demand upon a county resident who is delinquent in the payment of personal property taxes.~~ The written demand may be served upon the taxpayer:

- (1) by registered or certified mail;
- (2) in person by the county treasurer or the county treasurer's agent; or
- (3) by proof of certificate of mailing.

(b) The written demand required by this section shall contain:

- (1) a statement that the taxpayer is delinquent in the payment of personal property taxes;
- (2) the amount of the delinquent taxes;
- (3) the penalties due on the delinquent taxes;
- (4) the collection expenses which the taxpayer owes; and
- (5) a statement that if the sum of the delinquent taxes, penalties, and collection expenses are not paid within thirty (30) days from the date the demand is made then:

(A) sufficient personal property of the taxpayer shall be sold to satisfy the total amount due plus the additional collection expenses incurred; or

(B) a judgment may be entered against the taxpayer in the circuit court of the county.

(c) Subsections (d) through (g) apply only to personal property that:

- (1) is subject to a lien of a creditor imposed under an agreement entered into between the debtor and the creditor after June 30, 2005;
- (2) comes into the possession of the creditor or the creditor's agent after May 10, 2006, to satisfy all or part of the debt arising from the agreement described in subdivision (1); and
- (3) has an assessed value of at least three thousand two hundred dollars (\$3,200).

(d) For the purpose of satisfying a creditor's lien on personal property, the creditor of a taxpayer that comes into possession of personal property on which the taxpayer is adjudicated delinquent in the payment of personal property taxes must pay in full to the county treasurer the amount of the delinquent personal property taxes determined under STEP SEVEN of the following formula from the proceeds of any transfer of the personal property made by the creditor or the creditor's agent before applying the proceeds to the creditor's lien on the personal property:

STEP ONE: Determine the amount realized from any

transfer of the personal property made by the creditor or the creditor's agent after the payment of the direct costs of the transfer.

STEP TWO: Determine the amount of the delinquent taxes, including penalties and interest accrued on the delinquent taxes as identified on the form described in subsection (f) by the county treasurer.

STEP THREE: Determine the amount of the total of the unpaid debt that is a lien on the transferred property that was perfected before the assessment date on which the delinquent taxes became a lien on the transferred property.

STEP FOUR: Determine the sum of the STEP TWO amount and the STEP THREE amount.

STEP FIVE: Determine the result of dividing the STEP TWO amount by the STEP FOUR amount.

STEP SIX: Multiply the STEP ONE amount by the STEP FIVE amount.

STEP SEVEN: Determine the lesser of the following:

(A) The STEP TWO amount.

(B) The STEP SIX amount.

(e) This subsection applies to transfers made by a creditor after May 10, 2006. As soon as practicable after a creditor comes into possession of the personal property described in subsection (c), the creditor shall request the form described in subsection (f) from the county treasurer. Before a creditor transfers personal property described in subsection (d) on which delinquent personal property taxes are owed, the creditor must obtain from the county treasurer a delinquent personal property tax form and file the delinquent personal property tax form with the county treasurer. The creditor shall provide the county treasurer with:

- (1) the name and address of the debtor; and
- (2) a specific description of the personal property described in subsection (d);

when requesting a delinquent personal property tax form.

(f) The delinquent personal property tax form must be in a form prescribed by the state board of accounts under IC 5-11 and must require the following information:

(1) The name and address of the debtor as identified by the creditor.

(2) A description of the personal property identified by the creditor and now in the creditor's possession.

(3) The assessed value of the personal property identified by the creditor and now in the creditor's possession, as determined under subsection (g).

(4) The amount of delinquent personal property taxes owed on the personal property identified by the creditor and now in the creditor's possession, as determined under subsection (g).

(5) A statement notifying the creditor that IC 6-1.1-23-1 requires that a creditor, upon the liquidation of personal property for the satisfaction of the creditor's lien, must pay in full the amount of delinquent personal property taxes owed as determined under subsection (d) on the personal property in the amount identified on this form from the proceeds of the liquidation before the proceeds of the liquidation may be applied to the creditor's lien on the personal property.

(g) The county treasurer shall provide the delinquent personal property tax form described in subsection (f) to the creditor not later than fourteen (14) days after the date the creditor requests the delinquent personal property tax form. The county and township assessors shall assist the county treasurer in determining the appropriate assessed value of the personal property and the amount of delinquent personal property taxes owed on the personal property. Assistance provided by the county and township assessors must include providing the county treasurer with relevant personal property forms filed with the assessors and providing the county treasurer with any other assistance necessary to accomplish the purposes of this section.

SECTION 15. IC 6-1.1-31-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7. (a) With respect to the assessment of personal property, the rules of the department of local government finance shall provide for the classification of personal property on the basis of:

- (1) date of purchase;
- (2) location;
- (3) use;
- (4) depreciation, obsolescence, and condition; and
- (5) any other factor that the department determines by rule is just and proper.

(b) With respect to the assessment of personal property, the rules of the department of local government finance shall include instructions for determining:

- (1) the proper classification of personal property;
- (2) the effect that location has on the value of personal property;
- (3) the cost of reproducing personal property;
- (4) the depreciation, including physical deterioration and obsolescence, of personal property;
- (5) the productivity or earning capacity of mobile homes regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more;
- (6) the true tax value of mobile homes assessed under IC 6-1.1-7 (other than mobile homes subject to the preferred valuation method under IC 6-1.1-4-39(b)) as the least of the values determined using the following:

(A) The National Automobile Dealers Association Guide.

(B) The purchase price of a mobile home if:

- (i) the sale is of a commercial enterprise nature; and
- (ii) the buyer and seller are not related by blood or marriage.

(C) Sales data for generally comparable mobile homes; and
 (7) the true tax value at the time of acquisition of computer application software, for the purpose of deducting the value of computer application software from the acquisition cost of tangible personal property whenever the value of the tangible personal property that is recorded on the taxpayer's books and records reflects the value of the computer application software; and

~~(7)~~ (8) the true tax value of personal property based on the factors listed in this subsection and any other factor that the department determines by rule is just and proper.

(c) In providing for the classification of personal property and the instructions for determining the items listed in subsection (b), the department of local government finance shall not include the value of land as a cost of producing tangible personal property subject to assessment.

(d) With respect to the assessment of personal property, true tax value does not mean fair market value. Subject to this article, true tax value is the value determined under rules of the department of local government finance.

SECTION 16. IC 6-1.1-45 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]:

Chapter 45. Enterprise Zone Investment Deduction

Sec. 1. The definitions in this chapter apply throughout this chapter.

Sec. 2. "Base year assessed value" equals the total assessed value of the real and personal property assessed at an enterprise zone location on the assessment date in the calendar year immediately preceding the calendar year in which a taxpayer makes a qualified investment with respect to the enterprise zone location.

Sec. 3. "Corporation" refers to the Indiana economic development corporation established under IC 5-28-3-1.

Sec. 4. "Enterprise zone" refers to an enterprise zone created under IC 5-28-15.

Sec. 5. "Enterprise zone location" means a lot, parcel, or tract of land located in an enterprise zone.

Sec. 6. "Enterprise zone property" refers to real and tangible personal property that is located within an enterprise zone on an assessment date.

Sec. 7. As used in this chapter, "qualified investment" means any of the following expenditures relating to an enterprise zone location on which a taxpayer's zone business is located:

- (1) The purchase of a building.
- (2) The purchase of new manufacturing or production equipment.

(3) Costs associated with the repair, rehabilitation, or modernization of an existing building and related improvements.

(4) Onsite infrastructure improvements.

(5) The construction of a new building.

(6) Costs associated with retooling existing machinery.

Sec. 8. "Zone business" has the meaning set forth in IC 5-28-15-3.

Sec. 9. (a) A taxpayer that makes a qualified investment is entitled to a deduction from the assessed value of the taxpayer's enterprise zone property located at the enterprise zone location for which the taxpayer made the qualified investment. The amount of the deduction is equal to the remainder of:

- (1) the total amount of the assessed value of the taxpayer's enterprise zone property assessed at the enterprise zone location on a particular assessment date; minus
- (2) the total amount of the base year assessed value for the enterprise zone location.

(b) To receive the deduction allowed under subsection (a) for a particular year, a taxpayer must comply with the conditions set forth in this chapter.

Sec. 10. (a) A taxpayer that desires to claim the deduction provided by section 9 of this chapter for a particular year shall file a certified application, on forms prescribed by the department of local government finance, with the auditor of the county where the property for which the deduction is claimed was located on the assessment date. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. The application must be filed before May 10 of the assessment year to obtain the deduction.

(b) A taxpayer shall include on an application filed under this section all information that the department of local government finance and the corporation require to determine eligibility for the deduction provided under this chapter.

Sec. 11. (a) The county auditor shall determine the eligibility of each applicant under this chapter and shall notify the applicant of the determination before August 15 of the year in which the application is made.

(b) A person may appeal the determination of the county auditor under subsection (a) by filing a complaint in the office of the clerk of the circuit or superior court not later than forty-five (45) days after the county auditor gives the person notice of the determination.

Sec. 12. A taxpayer may not claim a deduction under this chapter for more than ten (10) years.

SECTION 17. IC 6-3.1-7-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7.** The department shall annually compile and report to the Indiana economic development corporation the following information:

- (1) The number of tax credits claimed under this chapter for returns processed during the preceding state fiscal year.
- (2) The total amount of the claims for tax credits described in subdivision (1).
- (3) For each enterprise zone, the number and amount of the claims for tax credits described in subdivision (1) that are attributable to loans made to businesses located in the enterprise zone.

SECTION 18. IC 6-3.5-6-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 27.** (a) This section applies only to Miami County. Miami County possesses unique economic development challenges due to:

- (1) underemployment in relation to similarly situated counties; and
- (2) the presence of a United States government military base or other military installation that is completely or partially inactive or closed.

Maintaining low property tax rates is essential to economic development, and the use of county option income tax revenues as provided in this chapter to pay any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping described under subsection (c), rather than use of property taxes, promotes that

purpose.

(b) In addition to the rates permitted by sections 8 and 9 of this chapter, the county council may impose the county option income tax at a rate of twenty-five hundredths percent (0.25%) on the adjusted gross income of resident county taxpayers if the county council makes the finding and determination set forth in subsection (c). Section 8(e) of this chapter applies to the application of the additional rate to nonresident taxpayers.

(c) In order to impose the county option income tax as provided in this section, the county council must adopt an ordinance finding and determining that revenues from the county option income tax are needed to pay the costs of financing, constructing, acquiring, renovating, and equipping a county jail, including the repayment of bonds issued, or leases entered into, for financing, constructing, acquiring, renovating, and equipping a county jail.

(d) If the county council makes a determination under subsection (c), the county council may adopt a tax rate under subsection (b). The tax rate may not be imposed at a rate or for a time greater than is necessary to pay the costs of financing, constructing, acquiring, renovating, and equipping a county jail.

(e) The county treasurer shall establish a county jail revenue fund to be used only for the purposes described in this section. County option income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund before making a certified distribution under section 18 of this chapter.

(f) County option income tax revenues derived from the tax rate imposed under this section:

- (1) may only be used for the purposes described in this section;
- (2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and
- (3) may be pledged to the repayment of bonds issued, or leases entered into, for the purposes described in subsection (c).

(g) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for an increased distribution of taxes in the immediately following calendar year after the county adopts an increased tax rate under this section and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in section 17(a)(1) through 17(a)(2) of this chapter in the manner provided in section 17(c) of this chapter.

SECTION 19. IC 6-3.5-6-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) This section applies only to Howard County.

(b) Maintaining low property tax rates is essential to economic development, and the use of county option income tax revenues as provided in this chapter and as needed in the county to fund the operation and maintenance of a jail and juvenile detention center, rather than the use of property taxes, promotes that purpose.

(c) In addition to the rates permitted by sections 8 and 9 of this chapter, the county fiscal body may impose the county option income tax at a rate of twenty-five hundredths percent (0.25%) on the adjusted gross income of resident county taxpayers if the county fiscal body makes the finding and determination set forth in subsection (d). Section 8(e) of this chapter applies to the application of the additional rate to nonresident taxpayers.

(d) In order to impose the county option income tax as provided in this section, the county fiscal body must adopt an ordinance:

- (1) finding and determining that revenues from the county option income tax are needed in the county to fund the operation and maintenance of a jail, a juvenile detention center, or both; and
- (2) agreeing to freeze the part of any property tax levy imposed in the county for the operation of the jail or juvenile detention center, or both, covered by the ordinance at the rate imposed in the year preceding the year in which

a full year of additional county option income tax is certified for distribution to the county under this section for the term in which an ordinance is in effect under this section.

(e) If the county fiscal body makes a determination under subsection (d), the county fiscal body may adopt a tax rate under subsection (c). Subject to the limitations in subsection (c), the county fiscal body may amend an ordinance adopted under this section to increase, decrease, or rescind the additional tax rate imposed under this section. As soon as practicable after the adoption of an ordinance under this section, the county fiscal body shall send a certified copy of the ordinance to the county auditor, the department of local government finance, and the department of state revenue. An ordinance adopted under this section before April 1 in a year applies to the imposition of county income taxes after June 30 in that year. An ordinance adopted under this section after March 31 of a year initially applies to the imposition of county option income taxes after June 30 of the immediately following year.

(f) The county treasurer shall establish a county jail revenue fund to be used only for the purposes described in this section. County option income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund before making a certified distribution under section 18 of this chapter.

(g) County option income tax revenues derived from the tax rate imposed under this section:

- (1) may only be used for the purposes described in this section; and
- (2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5.

(h) The department of local government finance shall enforce an agreement under subsection (d)(2).

(i) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for an increased distribution of taxes in the immediately following calendar year after the county adopts an increased tax rate under this section and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in section 17(a)(1) through 17(a)(2) of this chapter in the manner provided in section 17(c) of this chapter.

SECTION 20. IC 6-3.5-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (c), the county economic development income tax may be imposed on the adjusted gross income of county taxpayers. The entity that may impose the tax is:

- (1) the county income tax council (as defined in IC 6-3.5-6-1) if the county option income tax is in effect on January 1 of the year the county economic development income tax is imposed;
- (2) the county council if the county adjusted gross income tax is in effect on January 1 of the year the county economic development tax is imposed; or
- (3) the county income tax council or the county council, whichever acts first, for a county not covered by subdivision (1) or (2).

To impose the county economic development income tax, a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax.

(b) Except as provided in subsections (c), (g), (k), (p), and (r) the county economic development income tax may be imposed at a rate of:

- (1) one-tenth percent (0.1%);
- (2) two-tenths percent (0.2%);
- (3) twenty-five hundredths percent (0.25%);
- (4) three-tenths percent (0.3%);
- (5) thirty-five hundredths percent (0.35%);
- (6) four-tenths percent (0.4%);
- (7) forty-five hundredths percent (0.45%); or
- (8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

(c) Except as provided in subsections (h), (i), (j), (k), (l), (m), (n), (o), ~~or~~ (p), or (s), the county economic development income tax rate

plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g), ~~or~~ (p), (r), or (t), the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose, increase, decrease, or rescind the county economic development income tax, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance to impose the tax must substantially state the following:

"The _____ County _____ imposes the county economic development income tax on the county taxpayers of _____ County. The county economic development income tax is imposed at a rate of _____ percent (____%) on the county taxpayers of the county. This tax takes effect July 1 of this year."

(e) Any ordinance adopted under this chapter takes effect July 1 of the year the ordinance is adopted.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this chapter and shall, not more than ten (10) days after the vote, send a certified copy of the results to the commissioner of the department by certified mail.

(g) This subsection applies to a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000). Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

- (1) county economic development income tax may be imposed at a rate of:
 - (A) fifteen-hundredths percent (0.15%);
 - (B) two-tenths percent (0.2%); or
 - (C) twenty-five hundredths percent (0.25%); and
- (2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);

if the county income tax council makes a determination to impose rates under this subsection and section 22 of this chapter.

(h) For a county having a population of more than forty-one thousand (41,000) but less than forty-three thousand (43,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and thirty-five hundredths percent (1.35%) if the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

(i) For a county having a population of more than thirteen thousand five hundred (13,500) but less than fourteen thousand (14,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and fifty-five hundredths percent (1.55%).

(j) For a county having a population of more than seventy-one thousand (71,000) but less than seventy-one thousand four hundred (71,400), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(k) This subsection applies to a county having a population of more than twenty-seven thousand four hundred (27,400) but less than twenty-seven thousand five hundred (27,500). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

- (1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and
- (2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.

(l) For a county having a population of more than twenty-nine thousand (29,000) but less than thirty thousand (30,000), except as provided in subsection (p), the county economic development income

tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(m) For:

- (1) a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000); or
- (2) a county having a population of more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900);

except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(n) For a county having a population of more than six thousand (6,000) but less than eight thousand (8,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(o) This subsection applies to a county having a population of more than thirty-nine thousand (39,000) but less than thirty-nine thousand six hundred (39,600). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

- (1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and
- (2) the sum of the county economic development income tax rate and:
 - (A) the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%); or
 - (B) the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 24 of this chapter.

(p) In addition:

- (1) the county economic development income tax may be imposed at a rate that exceeds by not more than twenty-five hundredths percent (0.25%) the maximum rate that would otherwise apply under this section; and
- (2) the:
 - (A) county economic development income tax; and
 - (B) county option income tax or county adjusted gross income tax;

may be imposed at combined rates that exceed by not more than twenty-five hundredths percent (0.25%) the maximum combined rates that would otherwise apply under this section.

However, the additional rate imposed under this subsection may not exceed the amount necessary to mitigate the increased ad valorem property taxes on homesteads (as defined in IC 6-1.1-20.9-1) resulting from the deduction of the assessed value of inventory in the county under IC 6-1.1-12-41 or IC 6-1.1-12-42.

(q) If the county economic development income tax is imposed as authorized under subsection (p) at a rate that exceeds the maximum rate that would otherwise apply under this section, the certified distribution must be used for the purpose provided in section 25(e) or 26 of this chapter to the extent that the certified distribution results from the difference between:

- (1) the actual county economic development tax rate; and
- (2) the maximum rate that would otherwise apply under this section.

(r) This subsection applies only to a county described in section 27 of this chapter. Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

- (1) county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and
- (2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this

subsection and section 27 of this chapter.

(s) Except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%) if the county has imposed the county adjusted gross income tax under IC 6-3.5-1.1-3.3.

(t) This subsection applies to Howard County. Except as provided in subsection (p), the sum of the county economic development income tax rate and the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%).

SECTION 21. IC 6-3.5-7-13.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13.1. (a) The fiscal officer of each county, city, or town for a county in which the county economic development tax is imposed shall establish an economic development income tax fund. Except as provided in sections 23, 25, 26, and 27 of this chapter, the revenue received by a county, city, or town under this chapter shall be deposited in the unit's economic development income tax fund.

(b) Except as provided in sections 15, 23, 25, 26, and 27 of this chapter, revenues from the county economic development income tax may be used as follows:

(1) By a county, city, or town for economic development projects, for paying, notwithstanding any other law, under a written agreement all or a part of the interest owed by a private developer or user on a loan extended by a financial institution or other lender to the developer or user if the proceeds of the loan are or are to be used to finance an economic development project, for the retirement of bonds under section 14 of this chapter for economic development projects, for leases under section 21 of this chapter, or for leases or bonds entered into or issued prior to the date the economic development income tax was imposed if the purpose of the lease or bonds would have qualified as a purpose under this chapter at the time the lease was entered into or the bonds were issued.

(2) By a county, city, or town for:

(A) the construction or acquisition of, or remedial action with respect to, a capital project for which the unit is empowered to issue general obligation bonds or establish a fund under any statute listed in IC 6-1.1-18.5-9.8;

(B) the retirement of bonds issued under any provision of Indiana law for a capital project;

(C) the payment of lease rentals under any statute for a capital project;

(D) contract payments to a nonprofit corporation whose primary corporate purpose is to assist government in planning and implementing economic development projects;

(E) operating expenses of a governmental entity that plans or implements economic development projects;

(F) to the extent not otherwise allowed under this chapter, funding substance removal or remedial action in a designated unit; or

(G) funding of a revolving fund established under IC 5-1-14-14.

(3) By a city or county described in IC 36-7.5-2-3(b) for making transfers required by IC 36-7.5-4-2. If the county economic development income tax rate is increased after April 30, 2005, in a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), the first three million five hundred thousand dollars (\$3,500,000) of the tax revenue that results each year from the tax rate increase shall be used by the county only to make the county's transfer required by IC 36-7.5-4-2. The first three million five hundred thousand dollars (\$3,500,000) of the tax revenue that results each year from the tax rate increase shall be paid by the county treasurer to the treasurer of the northwest Indiana regional development authority under IC 36-7.5-4-2 before certified distributions are made to the county or any cities or towns in the county under this chapter from the tax revenue that results each year from the tax rate increase. In a county having a population of more than one hundred forty-five thousand (145,000) but

less than one hundred forty-eight thousand (148,000), all of the tax revenue that results each year from the tax rate increase that is in excess of the first three million five hundred thousand dollars (\$3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for additional homestead credits under subdivision (4).

(4) This subdivision applies only in a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000). Except as otherwise provided, the procedures and definitions in IC 6-1.1-20.9 apply to this subdivision. All of the tax revenue that results each year from a tax rate increase described in subdivision (3) that is in excess of the first three million five hundred thousand dollars (\$3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for additional homestead credits under this subdivision. The following apply to additional homestead credits provided under this subdivision:

(A) The additional homestead credits must be applied uniformly to increase the homestead credit under IC 6-1.1-20.9 for homesteads in the county, city, or town.

(B) The additional homestead credits shall be treated for all purposes as property tax levies. The additional homestead credits do not reduce the basis for determining the state property tax replacement credit under IC 6-1.1-21 or the state homestead credit under IC 6-1.1-20.9.

(C) The additional homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(D) The department of local government finance shall determine the additional homestead credit percentage for a particular year based on the amount of county economic development income tax revenue that will be used under this subdivision to provide additional homestead credits in that year.

(5) This subdivision applies only in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). Except as otherwise provided, the procedures and definitions in IC 6-1.1-20.9 apply to this subdivision. A county or a city or town in the county may use county economic development income tax revenue to provide additional homestead credits in the county, city, or town. The following apply to additional homestead credits provided under this subdivision:

(A) The county, city, or town fiscal body must adopt an ordinance authorizing the additional homestead credits. The ordinance must:

(i) be adopted before September 1 of a year to apply to property taxes first due and payable in the following year; and

(ii) specify the amount of county economic development income tax revenue that will be used to provide additional homestead credits in the following year.

(B) A county, city, or town fiscal body that adopts an ordinance under this subdivision must forward a copy of the ordinance to the county auditor and the department of local government finance not more than thirty (30) days after the ordinance is adopted.

(C) The additional homestead credits must be applied uniformly to increase the homestead credit under IC 6-1.1-20.9 for homesteads in the county, city, or town.

(D) The additional homestead credits shall be treated for all purposes as property tax levies. The additional homestead credits do not reduce the basis for determining the state property tax replacement credit under IC 6-1.1-21 or the state homestead credit under IC 6-1.1-20.9.

(E) The additional homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(F) The department of local government finance shall determine the additional homestead credit percentage for a particular year based on the amount of county economic development income tax revenue that will be used under this subdivision to provide additional homestead credits in that year.

(c) As used in this section, an economic development project is any project that:

- (1) the county, city, or town determines will:
 - (A) promote significant opportunities for the gainful employment of its citizens;
 - (B) attract a major new business enterprise to the unit; or
 - (C) retain or expand a significant business enterprise within the unit; and
- (2) involves an expenditure for:
 - (A) the acquisition of land;
 - (B) interests in land;
 - (C) site improvements;
 - (D) infrastructure improvements;
 - (E) buildings;
 - (F) structures;
 - (G) rehabilitation, renovation, and enlargement of buildings and structures;
 - (H) machinery;
 - (I) equipment;
 - (J) furnishings;
 - (K) facilities;
 - (L) administrative expenses associated with such a project, including contract payments authorized under subsection (b)(2)(D);
 - (M) operating expenses authorized under subsection (b)(2)(E); or
 - (N) to the extent not otherwise allowed under this chapter, substance removal or remedial action in a designated unit; or any combination of these.

SECTION 22. IC 6-6-9.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 9.5. Vanderburgh County Supplemental Auto Rental Excise Tax

Sec. 1. This chapter applies to Vanderburgh County.

Sec. 2. As used in this chapter, "department" refers to the department of state revenue.

Sec. 3. As used in this chapter, "gross retail income" has the meaning set forth in IC 6-2.5-1-5.

Sec. 4. As used in this chapter, "passenger motor vehicle" has the meaning set forth in IC 9-13-2-123(a).

Sec. 5. As used in this chapter, "person" has the meaning set forth in IC 6-2.5-1-3.

Sec. 6. As used in this chapter, "retail merchant" has the meaning set forth in IC 6-2.5-1-8.

Sec. 7. (a) The legislative body of the most populous city in the county may adopt an ordinance to impose an excise tax, known as the county supplemental auto rental excise tax, upon the rental of passenger motor vehicles in the county for periods of less than thirty (30) days. The ordinance must specify that the tax expires December 31, 2036.

(b) The county supplemental auto rental excise tax that may be imposed upon the rental of a passenger motor vehicle is two percent (2%) of the gross retail income received by the retail merchant for the rental.

(c) If the city legislative body adopts an ordinance under subsection (a), the city legislative body shall immediately send a certified copy of the ordinance to the commissioner of the department.

(d) If the city legislative body adopts an ordinance under subsection (a) before June 1 of a year, the county supplemental auto rental excise tax applies to auto rentals after June 30 of the

year in which the ordinance is adopted. If the city legislative body adopts an ordinance under subsection (a) on or after June 1 of a year, the county supplemental auto rental excise tax applies to auto rentals after the last day of the month in which the ordinance is adopted.

Sec. 8. (a) The rental of a passenger motor vehicle by a funeral director licensed under IC 25-15 is exempt from the county supplemental auto rental excise tax if the rental is part of the services provided by the funeral director for a funeral.

(b) The temporary rental of a passenger motor vehicle is exempt from the county supplemental auto rental excise tax if the rental is:

- (1) made or reimbursed under a contract or agreement:
 - (A) between a provider and a person;
 - (B) given for consideration over and above the lease or purchase price of a motor vehicle; and
 - (C) that undertakes to perform or provide repair or replacement service, or indemnification for that service, for the operational or structural failure of a motor vehicle due to a defect in materials or skill of work or normal wear and tear;
- (2) made or reimbursed under a contract for mechanical breakdown insurance;
- (3) made or reimbursed under a contract for automobile collision insurance or automobile comprehensive insurance that covers the temporary lease of a vehicle to a person after the person's vehicle is damaged or destroyed in a collision; or
- (4) otherwise provided to a person as a replacement vehicle:
 - (A) while the person's vehicle is repaired or serviced due to a defect in materials or skill of work, normal wear and tear, or other damage; or
 - (B) until the person permanently replaces a vehicle that has been destroyed.

Sec. 9. A person that rents a passenger motor vehicle is liable for the county supplemental auto rental excise tax. The person shall pay the tax to the retail merchant as a separate amount added to the consideration for the rental. The retail merchant shall collect the tax as an agent for the state.

Sec. 10. (a) Except as otherwise provided in this section, the county supplemental auto rental excise tax shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5.

(b) Each retail merchant filing a return for the county supplemental auto rental excise tax shall indicate in the return:

- (1) all locations in the county where the retail merchant collected county supplemental auto rental excise taxes; and
- (2) the amount of county supplemental auto rental excise taxes collected at each location.

(c) The return to be filed for the payment of the county supplemental auto rental excise tax may be:

- (1) a separate return;
- (2) combined with the return filed for the payment of the auto rental excise tax under IC 6-6-9; or
- (3) combined with the return filed for the payment of the state gross retail tax;

as prescribed by the department.

Sec. 11. The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state to the fiscal officer of the most populous city in the county upon warrants issued by the auditor of state.

Sec. 12. (a) If a tax is imposed under section 7 of this chapter, the fiscal officer of the most populous city in the county shall establish a supplemental auto rental excise tax fund.

(b) The city fiscal officer shall deposit in the supplemental auto rental excise tax fund all amounts received under this chapter.

(c) Any money earned from the investment of money in the supplemental auto rental excise tax fund becomes a part of the fund.

(d) Money in the supplemental auto rental excise tax fund shall be used by the city legislative body for capital improvements in the city that promote conventions, tourism, or recreation.

Sec. 13. This chapter expires January 1, 2036.

SECTION 23. IC 6-6-9.7-7 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. (a) The city-county council of a county that contains a consolidated city may adopt an ordinance to impose an excise tax, known as the county supplemental auto rental excise tax, upon the rental of passenger motor vehicles and trucks in the county for periods of less than thirty (30) days. The ordinance must specify that the tax expires December 31, 2027.

(b) **Except as provided in subsection (c)**, the county supplemental auto rental excise tax that may be imposed upon the rental of a passenger motor vehicle or truck equals two percent (2%) of the gross retail income received by the retail merchant for the rental.

(c) **On or before June 30, 2005, the city-county council may, by ordinance adopted by a majority of the members elected to the city-county council, increase the tax imposed under subsection (a) from two percent (2%) to four percent (4%). The ordinance must specify that:**

(1) **if on December 31, 2027, there are obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26, the original two percent (2%) rate imposed under subsection (a) continues to be levied after its original expiration date set forth in subsection (a) and through December 31, 2040; and**

(2) **the additional rate authorized under this subsection expires on:**

(A) **January 1, 2041;**

(B) **January 1, 2010, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under IC 5-1-17-26; or**

(C) **October 1, 2005, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under a lease or a sublease of an existing capital improvement entered into under IC 5-1-17, unless waived by the budget director.**

(d) **The amount collected from that portion of county supplemental auto rental excise tax imposed under:**

(1) **subsection (b) and collected after December 31, 2027; and**

(2) **under subsection (c);**

shall, in the manner provided by section 11 of this chapter, be distributed to the capital improvement board of managers operating in a consolidated city or its designee. So long as there are any current or future obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency pursuant to a lease or other agreement entered into between the capital improvement board of managers and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26, the capital improvement board of managers or its designee shall deposit the revenues received under this subsection in a special fund, which may be used only for the payment of the obligations described in this subsection.

~~(e)~~ (e) **If a city-county council adopts an ordinance under subsection (a) or (c), the city-county council shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.**

~~(f)~~ (f) **If a city-county council adopts an ordinance under subsection (a) or (c) prior to June 1, the county supplemental auto rental excise tax applies to auto rentals after June 30 of the year in which the ordinance is adopted. If the city-county council adopts an ordinance under subsection (a) or (c) on or after June 1, the county supplemental auto rental excise tax applies to auto rentals after the last day of the month in which the ordinance is adopted.**

SECTION 24. IC 6-6-9.7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 12. This chapter expires January 1, ~~2028~~ 2041.

SECTION 25. IC 6-8.1-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through

IC 4-31-9-5); the river boat admissions tax (IC 4-33-12); the river boat wagering tax (IC 4-33-13); the gross income tax (IC 6-2.1) (repealed); the utility receipts tax (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the county adjusted gross income tax (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county economic development income tax (IC 6-3.5-7); the municipal option income tax (IC 6-3.5-8); the auto rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); the hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the various county food and beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee (IC 16-44-2); the emergency and hazardous chemical inventory form fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23); the solid waste management fee (IC 13-20-22); and any other tax or fee that the department is required to collect or administer.

SECTION 26. IC 6-9-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The county council may levy a tax on every person engaged in the business of renting or furnishing, for periods of less than thirty (30) days, any room or rooms, lodgings, or accommodations in any commercial hotel, motel, inn, university memorial union, university residence hall, tourist camp, or tourist cabin located in a county described in section 1 of this chapter. The county treasurer shall allocate and distribute the tax revenues as provided in ~~section sections~~ **sections 7 and 9** of this chapter.

(b) The tax may not exceed the rate of ~~five six percent (5%)~~ **(6%)** on the gross retail income derived from lodging income only and shall be in addition to the state gross retail tax imposed under IC 6-2.5.

(c) The tax does not apply to gross retail income received in a transaction in which:

(1) a student rents lodgings in a university residence hall while that student participates in a course of study for which the student receives college credit from a state university located in the county; or

(2) a person rents a room, lodging, or accommodations for a period of thirty (30) days or more.

(d) The county fiscal body may adopt an ordinance to require that the tax be reported on forms approved by the county treasurer and that the tax shall be paid monthly to the county treasurer. If such an ordinance is adopted, the tax shall be paid to the county treasurer not more than twenty (20) days after the end of the month the tax is collected. If such an ordinance is not adopted, the tax shall be imposed, paid, and collected in exactly the same manner as the state gross retail tax is imposed, paid, and collected under IC 6-2.5.

(e) All of the provisions of IC 6-2.5 relating to rights, duties, liabilities, procedures, penalties, definitions, exemptions, and administration shall be applicable to the imposition and administration of the tax imposed by this section, except to the extent those provisions are in conflict or inconsistent with the specific provisions of this chapter or the requirements of the county treasurer. If the tax is paid to the department of state revenue, the return to be filed for the payment of the tax under this section may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax as the department of state revenue may, by rule, determine.

(f) If the tax is paid to the department of state revenue, the amounts received from the tax imposed under this section shall be paid quarterly by the treasurer of state to the county treasurer upon warrants issued by the auditor of state.

SECTION 27. IC 6-9-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The county treasurer shall establish an innkeeper's tax fund. The treasurer shall

deposit in that fund all money received under section 6 of this chapter **that is attributable to an innkeeper's tax rate that is not more than five percent (5%).**

(b) Money in the innkeeper's tax fund shall be expended in the following order:

(1) Through July 1999, not more than the revenue needed to service bonds issued under IC 36-10-3-40 through IC 36-10-3-45 and outstanding on January 1, 1993, may be used to service bonds. The county auditor shall make a semiannual distribution, at the same time property tax revenue is distributed, to a park and recreation district that has issued bonds payable from a county innkeeper's tax. Each semiannual distribution must be equal to one-half (½) of the annual principal and interest obligations on the bonds. Money received by a park and recreation district under this subdivision shall be deposited in a special fund to be used to service the bonds. During August 1999 the money that had been set aside to cover bond payments that remains after the bonds have been retired plus sixty percent (60%) of the tax revenue during August 1999 through December 1999 shall be distributed to the county treasurer to be used by the county park board, subject to appropriation by the county fiscal body.

(2) To the commission for its general use in paying operating expenses and to carry out the purposes set forth in section 3(a)(6) of this chapter. However, the amount that may be distributed under this subdivision during any particular year may not exceed the proceeds derived from an innkeeper's tax of two percent (2%) through December 1999 and fifty percent (50%) of the tax revenue beginning January 2000 and continuing through December 2014.

(3) For the period beginning July 1, 2002, through December 2014, fifty percent (50%) of the revenue to the county treasurer to be credited by the treasurer to a special account. The county treasurer shall distribute money in the special account as follows:

(A) Seventy-five percent (75%) of the money in the special account shall be distributed to the department of natural resources for the development of projects in the state park on the county's largest river, including its tributaries.

(B) Twenty-five percent (25%) of the money in the special account shall be distributed to a community development corporation that serves a metropolitan area in the county that includes:

- (i) a city having a population of more than fifty-five thousand (55,000) but less than fifty-nine thousand (59,000); and
- (ii) a city having a population of more than twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);

for the community development corporation's use in tourism, recreation, and economic development activities. For the period beginning July 1, 2002, and continuing through December 2006, the community development corporation shall provide not less than forty percent (40%) of the money received from the special account under this clause as a grant to a nonprofit corporation that leases land in the state park described in this subdivision for the nonprofit corporation's use in noncapital projects in the state park.

Money in the special account may not be used for any other purpose. The money credited to the account that has not been used as specified in this subdivision by January 1, 2015, shall be transferred to the commission to be used to make grants as provided in subsection (c)(2).

(c) Money in the innkeeper's tax fund subject to appropriation by the county council shall be allocated and distributed after December 2014 as follows:

- (1) Fifty percent (50%) of the revenue to the commission for the commission's general use in paying operating expenses and to carry out the purposes set forth in section 3(a)(6) of this chapter.
- (2) The remainder to the commission to be used solely to make grants for the development of recreation and tourism projects. The commission shall establish and make public the criteria that will be used in analyzing and awarding grants. At least ten

percent (10%) but not more than fifteen percent (15%) of the grants may be awarded for noncapital projects. Grants may be made only to the following entities upon application by the executive of the entity:

(A) The county for deposit in a special account.

(B) The most populated city in the county for deposit in a special account.

(C) The second most populated city in the county for deposit in a special account.

(D) The Tippecanoe County Wabash River parkway commission, but only so long as the interlocal agreement among the political subdivisions listed in clauses (A) through (C) is in effect. Money received by the parkway commission shall be segregated in a special account.

(d) Money credited to special accounts under subsection (c)(2) shall be used only for recreation or tourism projects, or both.

SECTION 28. IC 6-9-7-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 9. (a) If the county fiscal body adopts an ordinance to increase the county's innkeeper's tax rate to a rate that exceeds five percent (5%), the county treasurer shall establish a supplemental innkeeper's tax fund. The treasurer shall deposit in the fund all money received under section 6 of this chapter that is attributable to an innkeeper's tax rate that exceeds five percent (5%).**

(b) Money in the fund may be used for any purpose that in the discretion of the county fiscal body promotes economic development in the county.

SECTION 29. IC 6-9-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 3. (a) Except as provided in subsection (b);** The tax imposed by section 2 of this chapter shall be at the rate of:

(1) before January 1, 2028, five percent (5%) on the gross income derived from lodging income only, **plus an additional one percent (1%) if the fiscal body does not adopt adopts an ordinance under subsection (b), and six percent (6%) plus an additional three percent (3%) if the fiscal body adopts an ordinance under subsection (b); and (d);**

(2) after December 31, 2027, **and before January 1, 2041, five percent (5%), plus an additional one percent (1%) if the fiscal body adopts an ordinance under subsection (b), plus an additional three percent (3%) if the fiscal body adopts an ordinance under subsection (d); and**

(3) after December 31, 2040, five percent (5%).

(b) In any year subsequent to the initial year in which a tax is imposed under section 2 of this chapter, the fiscal body may, by ordinance adopted by at least two-thirds (2/3) of the members elected to the fiscal body, increase the tax imposed by section 2 of this chapter from five percent (5%) to six percent (6%). The ordinance must specify that the increase in the tax authorized under this subsection expires January 1, 2028.

(c) The amount collected from an increase adopted under subsection (b) shall be transferred to the capital improvement board of managers established by IC 36-10-9-3. The board shall deposit the revenues received under this subsection in a special fund. Money in the special fund may be used only for the payment of obligations incurred to expand a convention center, including:

(1) principal and interest on bonds issued to finance or refinance the expansion of a convention center; and

(2) lease agreements entered into to expand a convention center.

(d) On or before June 30, 2005, the fiscal body may, by ordinance adopted by a majority of the members elected to the fiscal body, increase the tax imposed by section 2 of this chapter by an additional three percent (3%) to a total rate of eight percent (8%) (or nine percent (9%) if the fiscal body has adopted an ordinance under subsection (b) and that rate remains in effect). The ordinance must specify that the increase in the tax authorized under this subsection expires on:

(1) January 1, 2041;

(2) January 1, 2010, if on that date there are no obligations owed by the capital improvement board of managers to the authority created by IC 5-1-17 or to any state agency under IC 5-1-17-26; or

(3) October 1, 2005, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under a lease or a sublease of an existing capital improvement entered into under IC 5-1-17, unless waived by the budget director.

If the fiscal body adopts an ordinance under this subsection, it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue, and the increase in the tax imposed under this chapter applies to transactions that occur after June 30, 2005.

(e) The amount collected from an increase adopted under:

(1) subsection (b) and collected after December 31, 2027; and

(2) subsection (d);

shall be transferred to the capital improvement board of managers established by IC 36-10-9-3 or its designee. So long as there are any current or future obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency pursuant to a lease or other agreement entered into between the capital improvement board of managers and the Indiana stadium and convention building authority or any state agency pursuant to IC 5-1-17-26, the capital improvement board of managers or its designee shall deposit the revenues received under this subsection in a special fund, which may be used only for the payment of the obligations described in this subsection.

SECTION 30. IC 6-9-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 5. (a) Subject to subsection (b), the county food and beverage tax imposed on a food or beverage transaction described in section 3 of this chapter equals one percent (1%) of the gross retail income received by the retail merchant from the transaction. The tax authorized under this subsection expires January 1, 2041.

(b) On or before June 30, 2005, the city-county council of a county may, by a majority vote of the members elected to the city-county council, adopt an ordinance that increases the tax imposed under this chapter by an additional rate of one percent (1%) to a total rate of two percent (2%). The ordinance must specify that the increase in the tax authorized under this subsection expires on:

(1) January 1, 2041;

(2) January 1, 2010, if on that date there are no obligations owed by the capital improvement board of managers to the authority created by IC 5-1-17 or to any state agency under IC 5-1-17-26; or

(3) October 1, 2005, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under a lease or a sublease of an existing capital improvement entered into under IC 5-1-17, unless waived by the budget director.

If a city-county council adopts an ordinance under this subsection, it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue, and the increase in the tax imposed under this chapter applies to transactions that occur after June 30, 2005.

(c) For purposes of this chapter, the gross retail income received by the retail merchant from such a transaction that is subject to the tax imposed by this chapter does not include the amount of tax imposed on the transaction under IC 6-2.5.

SECTION 31. IC 6-9-12-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. The amounts received from the county food and beverage tax shall be paid monthly by the treasurer of the state to the treasurer of the capital improvement board of managers of the county or its designee upon warrants issued by the auditor of state. So long as there are any current or future obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency pursuant to a lease or other agreement entered into between the capital improvement board of managers and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26, the capital

improvement board of managers or its designee shall deposit the revenues received from that portion of the county food and beverage tax imposed under:

(1) section 5(a) of this chapter for revenue received after December 31, 2027; and

(2) section 5(b) of this chapter;

in a special fund, which may be used only for the payment of the obligations described in this section.

SECTION 32. IC 6-9-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. (a) Except as provided in subsection (b), the city-county council of a county that contains a consolidated first class city may adopt an ordinance to impose an excise tax, known as the county admissions tax, for the privilege of attending, before January 1, ~~2028~~, 2041, any event and, after December 31, ~~2027~~, 2040, any professional sporting event:

(1) held in a facility financed in whole or in part by:

(A) bonds or notes issued under IC 18-4-17 (before its repeal on September 1, 1981), IC 36-10-9, or IC 36-10-9.1; or

(B) a lease or other agreement under IC 5-1-17; and

(2) to which tickets are offered for sale to the public by:

(A) the box office of the facility; or

(B) an authorized agent of the facility.

(b) The excise tax imposed under subsection (a) does not apply to the following:

(1) An event sponsored by an educational institution or an association representing an educational institution.

(2) An event sponsored by a religious organization.

(3) An event sponsored by an organization that is considered a charitable organization by the Internal Revenue Service for federal tax purposes.

(4) An event sponsored by a political organization.

(c) If a city-county council adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(d) If a city-county council adopts an ordinance under subsection (a) or section 2 of this chapter prior to June 1, the county admissions tax applies to admission charges collected after June 30 of the year in which the ordinance is adopted. If the city-county council adopts an ordinance under subsection (a) or section 2 of this chapter on or after June 1, the county admissions tax applies to admission charges collected after the last day of the month in which the ordinance is adopted.

SECTION 33. IC 6-9-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. (a) Except as provided in subsection (b), the county admissions tax equals five percent (5%) of the price for admission to any event described in section 1 of this chapter.

(b) On or before June 30, 2005, the city-county council may, by ordinance adopted by a majority of the members elected to the city-county council, increase the county admissions tax from five percent (5%) to six percent (6%) of the price for admission to any event described in section 1 of this chapter.

(c) The amount collected from that portion of the county admissions tax imposed under:

(1) subsection (a) and collected after December 31, 2027; and

(2) subsection (b);

shall be distributed to the capital improvement board of managers or its designee. So long as there are any current or future obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency pursuant to a lease or other agreement entered into between the capital improvement board of managers and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26, the capital improvement board of managers or its designee shall deposit the revenues received from that portion of the county admissions tax imposed under subsection (b) in a special fund, which may be used only for the payment of the obligations described in this subsection.

SECTION 34. IC 6-9-27-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. This chapter applies to the following:

- (1) A town:
 - (A) located in a county having a population of more than sixty-five thousand (65,000) but less than seventy thousand (70,000); and
 - (B) having a population of more than nine thousand (9,000).
- (2) A town:
 - (A) located in a county having a population of more than thirty-four thousand nine hundred (34,900) but less than thirty-four thousand nine hundred fifty (34,950); and
 - (B) having a population of less than one thousand (1,000).
- (3) A town:
 - (A) located in a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000); and
 - (B) having a population of more than fifteen thousand (15,000).
- (4) A town:
 - (A) located in a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000); and
 - (B) having a population of more than ten thousand (10,000) but less than fifteen thousand (15,000).
- (5) A town:
 - (A) located in a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000); and
 - (B) having a population of more than five thousand (5,000) but less than six thousand three hundred (6,300).
- (6) A city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).

SECTION 35. IC 6-9-27-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The fiscal body of the ~~town~~ **municipality** may adopt an ordinance to impose an excise tax, known as the ~~town~~ **municipal** food and beverage tax, on transactions described in section 4 of this chapter.

(b) If a fiscal body adopts an ordinance under subsection (a), the fiscal body shall immediately send a certified copy of the ordinance to the department of state revenue.

(c) If a fiscal body adopts an ordinance under subsection (a), the ~~town~~ **municipal** food and beverage tax applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance was adopted.

SECTION 36. IC 6-9-27-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to a transaction in which food or beverage is furnished, prepared, or served:

- (1) for consumption at a location or on equipment provided by a retail merchant;
- (2) in the **city or** town in which the tax is imposed; and
- (3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) food sold in a heated state or heated by a retail merchant;
- (3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or
- (4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

(c) The ~~town~~ **municipal** food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

SECTION 37. IC 6-9-27-5 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The ~~town~~ **municipal** food and beverage tax imposed on a food or beverage transaction described in section 4 of this chapter equals one percent (1%) of the gross retail income received by the merchant from the transaction. For purposes of this chapter, the gross retail income received by the retail merchant from a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

SECTION 38. IC 6-9-27-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state to the **city or** town fiscal officer upon warrants issued by the auditor of state.

SECTION 39. IC 6-9-27-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) If a tax is imposed under section 3 of this chapter **by a town described in section 1 of this chapter**, the town fiscal officer shall establish a food and beverage tax receipts fund.

(b) The town fiscal officer shall deposit in this fund all amounts received under this chapter.

(c) Money earned from the investment of money in the fund becomes a part of the fund.

SECTION 40. IC 6-9-27-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8.5. (a) **If a tax is imposed under section 3 of this chapter by a city described in section 1(6) of this chapter, the city fiscal officer shall establish a food and beverage tax receipts fund.**

(b) **The city fiscal officer shall deposit in this fund all amounts received under this chapter.**

(c) **Money earned from the investment of money in the fund becomes a part of the fund.**

SECTION 41. IC 6-9-27-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) Except as provided in subsection (b), money in the fund **established under section 8 of this chapter** shall be used by the town for the financing, construction, operation, or maintenance of the following:

- (1) Sanitary sewers or wastewater treatment facilities.
- (2) Park or recreational facilities.
- (3) Drainage or flood control facilities.
- (4) Water treatment, storage, or distribution facilities.

(b) The fiscal body of the town may pledge money in the fund to pay bonds issued, loans obtained, and lease payments or other obligations incurred by or on behalf of the town or a special taxing district in the town to provide the facilities described in subsection (a).

(c) Subsection (b) applies only to bonds, loans, lease payments, or obligations that are issued, obtained, or incurred after the date on which the tax is imposed under section 3 of this chapter.

(d) A pledge under subsection (a) is enforceable under IC 5-1-14-4.

SECTION 42. IC 6-9-27-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9.5. (a) **A city shall use money in the fund established under section 8.5 of this chapter for only the following:**

- (1) **Renovating the city hall.**
- (2) **Constructing new police or fire stations, or both.**
- (3) **Improving the city's sanitary sewers or wastewater treatment facilities, or both.**
- (4) **Improving the city's storm water drainage systems.**
- (5) **Other projects involving the city's water system or protecting the city's well fields, as determined by the city fiscal body.**

Money in the fund may not be used for the operating costs of a project. In addition, the city may not initiate a project under this chapter after December 31, 2010.

(b) **The fiscal body of the city may pledge money in the fund to pay bonds issued, loans obtained, and lease payments or other obligations incurred by or on behalf of the city or a special taxing district in the city to provide the projects described in subsection (a).**

(c) **Subsection (b) applies only to bonds, loans, lease payments, or obligations that are issued, obtained, or incurred after the date**

on which the tax is imposed under section 3 of this chapter.

(d) A pledge under subsection (b) is enforceable under IC 5-1-14-4.

SECTION 43. IC 6-9-27-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. With respect to obligations for which a pledge has been made under section 9(b) or 9.5(b) of this chapter, the general assembly covenants with the holders of the obligations that this chapter will not be repealed or amended in a manner that will adversely affect the imposition or collection of the tax imposed under this chapter if the payment of any of the obligations is outstanding.

SECTION 44. IC 6-9-35 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]:

Chapter 35. Stadium and Convention Building Food and Beverage Tax Funding

Sec. 1. This chapter applies to Boone, Johnson, Hamilton, Hancock, Hendricks, Morgan, and Shelby counties (referred to as counties in this chapter) and to the cities or towns of Carmel, Fishers, Greenfield, Lebanon, Noblesville, Westfield, and Zionsville that are located in those counties (referred to as municipalities in this chapter).

Sec. 2. The definitions in IC 6-9-12-1 and IC 36-1-2 apply throughout this chapter.

Sec. 3. As used in this chapter, "authority" refers to the Indiana stadium and convention building authority created by IC 5-1-17.

Sec. 4. As used in this chapter, "capital improvement board" means the capital improvement board of managers created by IC 36-10-9-3.

Sec. 5. (a) Except as provided in subsection (d), the fiscal body of a county may adopt an ordinance not later than June 30, 2005, to impose an excise tax, known as the food and beverage tax, on those transactions described in sections 8 and 9 of this chapter that occur anywhere within the county.

(b) Except as provided in subsection (d), if the county in which the municipality is located has adopted an ordinance imposing an excise tax under subsection (a), the fiscal body of a municipality may adopt an ordinance not later than September 30, 2005, to impose an excise tax, known as the food and beverage tax, on those transactions described in sections 8 and 9 of this chapter that occur anywhere within the municipality.

(c) The rate of the tax imposed under this chapter equals one percent (1%) of the gross retail income on the transaction. With respect to an excise tax in the municipalities set forth in IC 6-9-27-1(1) (Mooresville), IC 6-9-27-1(3) (Plainfield), IC 6-9-27-1(4) (Brownsburg), IC 6-9-27-1(5) (Avon), and IC 6-9-27-1(6) (Martinsville), the excise tax imposed by the county is in addition to the food and beverage tax imposed by those municipalities. With respect to an excise tax imposed by a county under subsection (a), the excise tax imposed by a municipality under subsection (b) is in addition to the food and beverage tax imposed by the county in which the municipality is located. For purposes of this chapter, the gross retail income received by the retail merchant from such a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5, IC 6-9-27, or this chapter.

(d) If the Marion County city-county council does not adopt all the ordinances required to be adopted by it under IC 5-1-17-25 on or before June 30, 2005, the counties and municipalities described in section 1 of this chapter are no longer subject to the provisions of this chapter. In that event, the fiscal body of the county or municipality may not adopt an ordinance to impose the excise tax authorized by this chapter, and any ordinance adopted by the fiscal body under subsection (a) or (b) is no longer effective.

Sec. 6. If a fiscal body adopts an ordinance under section 5 of this chapter, the clerk shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

Sec. 7. If a fiscal body adopts an ordinance under section 5 of this chapter, the food and beverage tax applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance was adopted.

Sec. 8. Except as provided in section 10 of this chapter, a tax imposed under section 5 of this chapter applies to any transaction in which food or beverage is furnished, prepared, or served:

- (1) for consumption at a location, or on equipment, provided by a retail merchant;
- (2) in the county or municipality, or both, in which the tax is imposed; and
- (3) by a retail merchant for consideration.

Sec. 9. Transactions described in section 8(1) of this chapter include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) food sold in a heated state or heated by a retail merchant;
- (3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or
- (4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

Sec. 10. The food and beverage tax under this chapter does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 11. The county fiscal body may adopt an ordinance requiring that any tax imposed under this chapter be reported on forms approved by the county treasurer and that the tax be paid monthly to the county treasurer. If such an ordinance is adopted, the tax shall be paid to the county treasurer not more than twenty (20) days after the end of the month the tax is collected, and the county treasurer is responsible for collecting the tax and enforcing any of the provisions of IC 6-2.5 with respect to the tax. If such an ordinance is not adopted, the tax shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the taxes may be made on separate returns or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 12. (a) As long as there are any current or future obligations owed by the capital improvement board to the authority or any state agency under a lease or other agreement entered into between the capital improvement board and the authority or any state agency pursuant to IC 5-1-17-26, fifty percent (50%) of the amounts received from the taxes imposed under this chapter by counties shall be paid monthly by the county treasurer, if the tax is being paid to the county treasurer, to the treasurer of state. This amount plus fifty percent (50%) of the amounts received by the state from the taxes imposed under this chapter by counties shall be paid monthly by the treasurer of state to the treasurer of the capital improvement board or its designee upon warrants issued by the auditor of state. The remainder that is received by the state shall be paid monthly by the treasurer of state to the county fiscal officer upon warrants issued by the auditor of state. In any state fiscal year, if the total amount of the taxes imposed under this chapter by all the counties and paid to the treasurer of the capital improvement board or its designee under this subsection equals five million dollars (\$5,000,000), the entire remainder of the taxes imposed by a county under this chapter during that state fiscal year shall be retained by the county treasurer or paid by the treasurer of state to the fiscal officer of the county, upon warrants issued by the auditor of state.

(b) If there are then existing no obligations of the capital improvement board described in subsection (a), the entire amount received from the taxes imposed by a county under this chapter shall be paid monthly by the treasurer of state to the county fiscal officer upon warrants issued by the auditor of state.

(c) The entire amount of the taxes paid to the treasurer of the capital improvement board or its designee under subsection (a) shall be deposited in a special fund and used only for the payment or to secure the payment of obligations of the capital improvement board described in subsection (a). If the taxes are not used for the payment or to secure the payment of obligations of the capital improvement board described in subsection (a), the taxes shall be returned by the capital improvement board to the treasurer of state who shall return the taxes to the respective counties that contributed the taxes.

(d) The entire amount received from the taxes imposed by a municipality under this chapter shall be paid monthly by the treasurer of state to the municipality's fiscal officer upon warrants issued by the auditor of state.

Sec. 13. (a) If a tax is imposed under section 5 of this chapter, the county's or municipality's fiscal officer, or both, shall establish a food and beverage tax fund.

(b) The fiscal officer shall deposit in the fund all amounts received by the fiscal officer under this chapter.

(c) Any money earned from the investment of money in the fund becomes a part of the fund.

Sec. 14. Money in the food and beverage tax fund shall be used by the county or municipality:

(1) to reduce the county's or municipality's property tax levy for a particular year at the discretion of the county or municipality, but this use does not reduce the maximum permissible levy under IC 6-1.1-18.5 for the county or municipality; or

(2) for any legal or corporate purpose of the county or municipality, including the pledge of money to bonds, leases, or other obligations under IC 5-1-14-4.

Revenue derived from the imposition of a tax under this chapter may be treated by a county or municipality as additional revenue for the purpose of fixing its budget for the budget year during which the revenues are to be distributed to the county or municipality.

Sec. 15. (a) If there are no obligations of the capital improvement board described in section 12(a) of this chapter then outstanding and there are no bonds, leases, or other obligations then outstanding for which a pledge has been made under section 14 of this chapter, the fiscal body may adopt an ordinance, after December 31, 2009, and before December 1, 2010, or any year thereafter, that repeals the ordinance adopted under section 5 of this chapter.

(b) An ordinance adopted under subsection (a) takes effect January 1 immediately following the date of its adoption. If the fiscal body adopts such an ordinance, the clerk shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(c) A tax imposed under this chapter terminates on January 1 of the year immediately following the year in which the last payment obligation of the capital improvement board is made with respect to any bond, lease, or other obligation described in section 12(a) of this chapter that existed on July 1, 2006.

Sec. 16. With respect to obligations of the capital improvement board described in section 12(a) of this chapter and bonds, leases, or other obligations for which a pledge has been made under section 14 of this chapter, the general assembly covenants with the holders of these obligations that:

(1) this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of the tax imposed under this chapter; and

(2) this chapter will not be amended in any manner that will change the purpose for which revenues from the tax imposed under this chapter may be used;

as long as the payment of any of those obligations is outstanding.

SECTION 45. IC 6-9-36 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]:

Chapter 36. Lake County and Porter County Food and Beverage Tax

Sec. 1. This chapter applies to the following:

(1) A county having a population of more than four hundred thousand (400,000) but less than seven hundred

thousand (700,000).

(2) A county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000).

Sec. 2. The definitions in IC 6-9-12-1 and IC 36-1-2 apply throughout this chapter.

Sec. 3. (a) The fiscal body of a county described in section 1 of this chapter may adopt an ordinance to impose an excise tax, known as the food and beverage tax, on those transactions described in sections 4 and 5 of this chapter that occur anywhere within the county.

(b) The following apply if the fiscal body of the county imposes a tax under this chapter:

(1) The rate of the tax equals one percent (1%) of the gross retail income on the transaction. For purposes of this chapter, the gross retail income received by the retail merchant from such a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5 or this chapter.

(2) The fiscal body shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(3) The tax applies to transactions that occur after the last day of the month that follows the month in which the ordinance was adopted.

(4) The fiscal body may adopt an ordinance to rescind the tax. The rescission of the tax takes effect after the last day of the month that follows the month in which the ordinance to rescind the tax is adopted. However, the fiscal body may not rescind the tax if there are bonds outstanding or leases or other obligations for which the tax has been pledged under IC 36-7.5.

Sec. 4. Except as provided in section 6 of this chapter, a tax imposed under section 3 of this chapter applies to any transaction in which food or beverage is furnished, prepared, or served:

(1) for consumption at a location, or on equipment, provided by a retail merchant;

(2) in the county or political subdivision, or both, in which the tax is imposed; and

(3) by a retail merchant for consideration.

Sec. 5. Transactions described in section 4(1) of this chapter include transactions in which food or beverage is:

(1) served by a retail merchant off the merchant's premises;

(2) food sold in a heated state or heated by a retail merchant;

(3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or

(4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

Sec. 6. The food and beverage tax under this chapter does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 7. The tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the taxes may be made on separate returns or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 8. (a) The entire amount received from the taxes imposed by a county under this chapter shall be paid monthly by the treasurer of state to the treasurer of the northwest Indiana regional development authority established by IC 36-7.5-2-1.

(b) The taxes paid to the treasurer of the development

authority under this section shall be deposited in the development authority fund established under IC 36-7.5-4-1.

SECTION 46. IC 6-9-37 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 37. Hendricks County Innkeeper's Tax

Sec. 1. (a) This chapter applies to a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000) that had adopted an innkeeper's tax under IC 6-9-18 before July 1, 2005.

(b) The:

- (1) convention, visitor, and tourism promotion fund;
- (2) convention and visitor commission;
- (3) innkeeper's tax rate; and
- (4) tax collection procedures;

established under IC 6-9-18 before July 1, 2005, remain in effect and govern the county's innkeeper's tax until amended under this chapter.

(c) A member of the convention and visitor commission established under IC 6-9-18 before July 1, 2005, shall serve a full term of office. If a vacancy occurs, the appointing authority shall appoint a qualified replacement as provided in this chapter. The appointing authority shall make other subsequent appointments to the commission as provided in this chapter.

Sec. 2. As used in this chapter:

- (1) "executive" and "fiscal body" have the meanings set forth in IC 36-1-2; and
- (2) "gross retail income" and "person" have the meanings set forth in IC 6-2.5-1.

Sec. 3. (a) The fiscal body of a county may levy a tax on every person engaged in the business of renting or furnishing, for periods of less than thirty (30) days, any room or rooms, lodgings, or accommodations in any:

- (1) hotel;
- (2) motel;
- (3) boat motel;
- (4) inn;
- (5) college or university memorial union;
- (6) college or university residence hall or dormitory; or
- (7) tourist cabin;

located in the county.

(b) The tax does not apply to gross income received in a transaction in which:

- (1) a student rents lodgings in a college or university residence hall while that student participates in a course of study for which the student receives college credit from a college or university located in the county; or
- (2) a person rents a room, lodging, or accommodations for a period of thirty (30) days or more.

(c) The tax may not exceed the rate of eight percent (8%) on the gross retail income derived from lodging income only and is in addition to the state gross retail tax imposed under IC 6-2.5.

(d) The county fiscal body may adopt an ordinance to require that the tax be reported on forms approved by the county treasurer and that the tax shall be paid monthly to the county treasurer. If such an ordinance is adopted, the tax shall be paid to the county treasurer not more than twenty (20) days after the end of the month the tax is collected. If such an ordinance is not adopted, the tax shall be imposed, paid, and collected in exactly the same manner as the state gross retail tax is imposed, paid, and collected under IC 6-2.5.

(e) All of the provisions of IC 6-2.5 relating to rights, duties, liabilities, procedures, penalties, definitions, exemptions, and administration are applicable to the imposition and administration of the tax imposed under this section except to the extent those provisions are in conflict or inconsistent with the specific provisions of this chapter or the requirements of the county treasurer. If the tax is paid to the department of state revenue, the return to be filed for the payment of the tax under this section may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax as the department of state revenue may, by rule, determine.

(f) If the tax is paid to the department of state revenue, the amounts received from the tax imposed under this section shall be

paid monthly by the treasurer of state to the county treasurer upon warrants issued by the auditor of state.

Sec. 4. (a) The county treasurer shall establish a convention, visitor, and tourism promotion fund. The treasurer shall deposit in this fund all amounts the treasurer receives under this chapter.

(b) The county auditor shall issue a warrant directing the county treasurer to transfer money from the convention, visitor, and tourism promotion fund to the treasurer of the commission established under section 5 of this chapter if the commission submits a written request for the transfer.

(c) Subject to subsection (e), money in a convention, visitor, and tourism promotion fund, or money transferred from such a fund under subsection (b), may be expended:

- (1) to promote and encourage conventions, visitors, and tourism within the county; and
- (2) for the development of a county park, a county fairground, or a county promotion.

Expenditures under subdivision (1) may include, but are not limited to, expenditures for advertising, promotional activities, trade shows, special events, and recreation.

(d) If before July 1, 1997, the county issued a bond with a pledge of revenues from the tax imposed under IC 6-9-18-3, the county shall continue to expend money from the fund for that purpose until the bond is paid.

(e) Tax revenues attributable to a tax rate that exceeds five percent (5%) must be divided equally between the expenditures authorized under subsection (c)(1) and (c)(2).

Sec. 5. (a) The county executive shall create a commission to promote the development and growth of the convention, visitor, and tourism industry in the county. If two (2) or more adjoining counties desire to establish a joint commission, the counties shall enter into an agreement under IC 36-1-7.

(b) The county executive shall determine the number of members, which must be an odd number, to be appointed to the commission. A simple majority of the members must be:

- (1) engaged in a convention, visitor, or tourism business; or
- (2) involved in or promoting conventions, visitors, or tourism.

If available and willing to serve, at least two (2) of the members must be engaged in the business of renting or furnishing rooms, lodging, or accommodations (as described in section 3 of this chapter). Not more than one (1) member may be affiliated with the same business entity. Not more than a simple majority of the members may be affiliated with the same political party. Each member must reside in the county. The county executive shall also determine who will make the appointments to the commission, except that the executive of the largest municipality in the county shall appoint a number of the members of the commission, which number shall be in the same ratio to the total size of the commission (rounded off to the nearest whole number) that the population of the largest municipality bears to the total population of the county.

(c) If a municipality other than the largest municipality in the county collects fifty percent (50%) or more of the tax revenue collected under this chapter during the three (3) month period following imposition of the tax, the executive of the municipality shall appoint the same number of members to the commission that the executive of the largest municipality in the county appoints under subsection (b).

(d) Except as provided in subsection (c), all terms of office of commission members begin on January 1. Initial appointments must be for staggered terms, with subsequent appointments for two (2) year terms. A member whose term expires may be reappointed to serve another term. If a vacancy occurs, the appointing authority shall appoint a qualified person to serve for the remainder of the term. If an initial appointment is not made by February 1 or a vacancy is not filled within thirty (30) days, the commission shall appoint a member by majority vote.

(e) A member of the commission may be removed for cause by the member's appointing authority.

(f) Members of the commission may not receive a salary. However, commission members are entitled to reimbursement for necessary expenses incurred in the performance of their respective duties.

(g) Each commission member, before entering the member's duties, shall take an oath of office in the usual form, to be endorsed upon the member's certificate of appointment and promptly filed with the clerk of the circuit court of the county.

(h) The commission shall meet after January 1 each year for the purpose of organization. It shall elect one (1) of its members president, another vice president, another secretary, and another treasurer. The members elected to those offices shall perform the duties pertaining to the offices. The first officers chosen shall serve from the date of their election until their successors are elected and qualified. A majority of the commission constitutes a quorum, and the concurrence of a majority of the commission is necessary to authorize any action.

Sec. 6. (a) The commission may:

- (1) accept and use gifts, grants, and contributions from any public or private source, under terms and conditions that the commission considers necessary and desirable;
- (2) sue and be sued;
- (3) enter into contracts and agreements;
- (4) make rules necessary for the conduct of its business and the accomplishment of its purposes;
- (5) receive and approve, alter, or reject requests and proposals for funding by corporations qualified under subdivision (6);
- (6) after its approval of a proposal, transfer money, quarterly or less frequently, from the fund established under section 4(a) of this chapter, or from money transferred from that fund to the commission's treasurer under section 4(b) of this chapter, to any Indiana nonprofit corporation to promote and encourage conventions, visitors, or tourism in the county; and
- (7) require financial or other reports from any corporation that receives funds under this chapter.

(b) All expenses of the commission shall be paid from the fund established under section 4(a) of this chapter or from money transferred from that fund to the commission's treasurer under section 4(b) of this chapter. The commission shall annually prepare a budget, taking into consideration the recommendations made by a corporation qualified under subsection (a)(6), and submit it to the county fiscal body for its review and approval. An expenditure may not be made under this chapter unless it is in accordance with an appropriation made by the county fiscal body in the manner provided by law.

Sec. 7. All money coming into possession of the commission shall be deposited, held, secured, invested, and paid in accordance with statutes relating to the handling of public funds. The handling and expenditure of money coming into possession of the commission is subject to audit and supervision by the state board of accounts.

Sec. 8. (a) A member of the commission who knowingly:

- (1) approves the transfer of money to any person or corporation not qualified under law for that transfer; or
- (2) approves a transfer for a purpose not permitted under law;

commits a Class D felony.

(b) A person who receives a transfer of money under this chapter and knowingly uses that money for any purpose not permitted under this chapter commits a Class D felony.

SECTION 47. IC 6-9-38 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 38. Food and Beverage Taxes in Wayne County

Sec. 1. This chapter applies to a county having a population of more than seventy-one thousand (71,000) but less than seventy-one thousand four hundred (71,400).

Sec. 2. Except as otherwise provided in this chapter, the definitions in IC 36-1-2 apply throughout this chapter.

Sec. 3. As used in this chapter, "beverage" includes an alcoholic beverage.

Sec. 4. As used in this chapter, "bonds" has the meaning set forth in IC 5-1-11-1.

Sec. 5. As used in this chapter, "department" means the department of state revenue.

Sec. 6. As used in this chapter, "economic development

project" has the meaning set forth in IC 6-3.5-7-13.1.

Sec. 7. As used in this chapter, "food" includes any food product.

Sec. 8. As used in this chapter, "gross retail income" has the meaning set forth in IC 6-2.5-1-5.

Sec. 9. As used in this chapter, "obligations" has the meaning set forth in IC 5-1-3-1(b).

Sec. 10. As used in this chapter, "person" has the meaning set forth in IC 6-2.5-1-3.

Sec. 11. As used in this chapter, "retail merchant" has the meaning set forth in IC 6-2.5-1-8.

Sec. 12. As used in this chapter, "unit" means:

- (1) a county described in section 1 of this chapter; or
- (2) a city or town located in the county described in section 1 of this chapter.

Sec. 13. (a) After January 1 but before August 1, the fiscal body of a unit may adopt an ordinance to impose an excise tax known as the unit's food and beverage tax on transactions described in section 14 of this chapter. The fiscal body of a unit other than a county may not adopt an ordinance under this chapter until after July 31, 2006, unless the fiscal body of the county adopts a resolution to relinquish its exclusive authority to adopt an ordinance under this chapter before August 1, 2006. If a county fiscal body adopts a resolution under this subsection, the county fiscal body shall send a certified copy of the resolution to the executive of each city and town located in the county.

(b) Before a fiscal body may adopt an ordinance imposing a food and beverage tax, the fiscal body must hold a public hearing on the proposed ordinance, with notice of the time, date, and place of the public hearing given in accordance with IC 5-3-1.

(c) If the fiscal body of a county adopts an ordinance to impose a food and beverage tax under this chapter, the county executive must also adopt a substantially similar ordinance to impose the tax.

(d) If an ordinance is adopted under subsection (c), the county executive shall immediately send a certified copy of the ordinance to the department.

(e) If a unit other than a county adopts an ordinance under this section, the unit's executive shall immediately send a certified copy of the ordinance to the department.

Sec. 14. (a) Except as provided in subsection (c), a food and beverage tax imposed under section 13 of this chapter applies to any transaction in which food or a beverage is furnished, prepared, or served:

- (1) for consumption at a location, or on equipment, provided by a retail merchant;
- (2) in the unit in which the tax is imposed; and
- (3) by the retail merchant for consideration.

If both a county and another unit located in the county impose a tax under this chapter, the tax imposed by the county does not apply within the territory of the other unit imposing the tax.

(b) Transactions described in subsection (a)(1) include transactions in which food or a beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) sold by a retail merchant who ordinarily bags, wraps, or packages the food or beverage for immediate consumption on or near the retail merchant's premises, including food or beverages sold on a "take out" or "to go" basis; or
- (3) sold by a street vendor.

(c) A food and beverage tax imposed under this chapter does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed under IC 6-2.5.

Sec. 15. The food and beverage tax imposed on a food or beverage transaction described in section 14 of this chapter is equal to one percent (1%) of the gross retail income received by the retail merchant from the transaction. For purposes of this chapter, the gross retail income received by the retail merchant from such a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

Sec. 16. (a) If no bonds, leases, obligations, or other evidences of indebtedness of a unit that are payable from a food and beverage tax imposed under this chapter are outstanding, the

unit's fiscal body may adopt an ordinance to repeal the unit's food and beverage tax.

(b) An ordinance described in subsection (a) must be adopted after January 1 but before September 1 of a year. The fiscal body shall send a certified copy of the ordinance adopted under this section to the department.

Sec. 17. If a fiscal body adopts an ordinance under this chapter, the ordinance takes effect January 1 of the year following the year in which the ordinance is adopted.

Sec. 18. A food and beverage tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return that is filed for the payment of the tax may be made on a separate return or may be combined with the return filed for the payment of the state gross retail tax as prescribed by the department.

Sec. 19. (a) The department shall notify the county auditor of a county containing a unit that imposes a food and beverage tax under this chapter of the amount of tax paid in the unit.

(b) The amounts received from a food and beverage tax imposed under this chapter shall be paid monthly by the treasurer of state on warrants issued by the auditor of state to the county auditor of the county in which the unit that imposed the tax is located.

Sec. 20. A county auditor shall establish for each unit in the county that imposes a tax under this chapter a local food and beverage tax revenue fund into which all amounts received monthly from the treasurer of state under this chapter shall be deposited.

Sec. 21. Revenue derived from a tax imposed under this chapter may be treated by a unit as additional revenue for the purpose of fixing its budget for the budget year during which the revenues are to be distributed to the unit.

Sec. 22. A unit may use revenues from a tax imposed under this chapter for one (1) or more of the following purposes:

- (1) To promote and encourage conventions, visitors, and tourism within the unit.
 - (2) To promote and encourage economic development within the unit.
 - (3) Paying debt service or lease rentals on:
 - (A) bonds;
 - (B) leases;
 - (C) obligations; or
 - (D) any other evidence of indebtedness of the unit;
- for a project described in subdivisions (1) and (2).

Sec. 23. The department of local government finance may not reduce a unit's property tax levy by the amount of revenue received from a tax imposed under this chapter.

Sec. 24. (a) The food and beverage tax revenue committee is established to make recommendations concerning the use of money in the funds established under section 20 of this chapter. The committee consists of the following members:

- (1) One (1) resident of the county representing each of the three (3) commissioner districts, appointed by the county executive. Not more than two (2) of the members appointed under this subdivision may be from the same political party.
- (2) Two (2) residents of the county, appointed by the county fiscal body. The two (2) appointees may not be from the same political party.
- (3) Two (2) residents of the largest city in the county, appointed by the city executive. The two (2) appointees under this subdivision may not be from the same political party. One (1) appointee must be interested in economic development.
- (4) Two (2) residents of the largest city in the county, appointed by the city fiscal body. The two (2) appointees under this subdivision may not be from the same political party. One (1) appointee must be interested in tourism.

(b) Except as provided in subsection (c), the term of a member appointed to the food and beverage tax revenue committee under this section is four (4) years.

(c) The initial terms of office for the members appointed to the food and beverage tax revenue committee under subsection (a) are as follows:

(1) Of the members appointed under subsection (a)(1), one (1) member shall be appointed for a term of two (2) years, one (1) member shall be appointed for three (3) years, and one (1) member shall be appointed for four (4) years.

(2) Of the members appointed under subsection (a)(2), one (1) member shall be appointed for two (2) years and one (1) member shall be appointed for three (3) years.

(3) Of the members appointed under subsection (a)(3), one (1) member shall be appointed for two (2) years and one (1) member shall be appointed for three (3) years.

(4) Of the members appointed under subsection (a)(4), one (1) member shall be appointed for three (3) years and one (1) member shall be appointed for four (4) years.

(d) At the expiration of a term under subsection (c), the member whose term expired shall be reappointed to the food and beverage tax revenue committee to fill the vacancy caused by the expiration.

(e) The food and beverage tax revenue committee is abolished on the date that the county fiscal body adopts a resolution abolishing the food and beverage tax revenue committee. A county fiscal body may adopt a resolution under this subsection if the county fiscal body determines that each unit in the county that had imposed a tax under this chapter has adopted an ordinance to rescind the tax.

Sec. 25. The general assembly covenants with each unit subject to this chapter and the purchasers and owners of bonds, leases, obligations, or any other evidences of indebtedness of the county payable from a tax imposed under this chapter that this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of a tax imposed under this chapter so long as the principal, interest, or lease rentals due under those bonds, leases, obligations, or other evidences of indebtedness of a unit that are payable from a tax imposed under this chapter remain unpaid.

Sec. 26. If a unit incurs indebtedness payable from a tax imposed by the unit under this chapter, the unit's food and beverage tax terminates two (2) years after the retirement of the debt financed by the food and beverage tax.

SECTION 48. IC 7.1-3-20-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) A permit that is authorized by this section may be issued without regard to the quota provisions of IC 7.1-3-22.

(b) The commission may issue a three-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant facility in the passenger terminal complex of a publicly owned airport which is served by a scheduled commercial passenger airline certified to enplane and deplane passengers on a scheduled basis by a federal aviation agency. A permit issued under this subsection shall not be transferred to a location off the airport premises.

(c) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a redevelopment project consisting of a building or group of buildings that:

- (1) was formerly used as part of a union railway station;
- (2) has been listed in or is within a district that has been listed in the federal National Register of Historic Places maintained pursuant to the National Historic Preservation Act of 1966, as amended; and
- (3) has been redeveloped or renovated, with the redevelopment or renovation being funded in part with grants from the federal, state, or local government.

A permit issued under this subsection shall not be transferred to a location outside of the redevelopment project.

(d) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant:

- (1) on land; or
- (2) in a historic river vessel;

within a municipal riverfront development project funded in part with state and city money. A permit issued under this subsection may not

be transferred.

(e) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a renovation project consisting of a building that:

- (1) was formerly used as part of a passenger and freight railway station; and
- (2) was built before 1900.

The permit authorized by this subsection may be issued without regard to the proximity provisions of IC 7.1-3-21-11.

(f) The commission may issue a three-way permit for the sale of alcoholic beverages for on-premises consumption at a cultural center for the visual and performing arts to a town that:

- (1) is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and
- (2) has a population of more than twenty thousand (20,000) but less than twenty-three thousand (23,000).

(g) After June 30, 2005, the commission may issue not more than ten (10) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within a district, or not more than five hundred (500) feet from a district, that meets the following requirements:

- (1) The district has been listed in the National Register of Historic Places maintained under the National Historic Preservation Act of 1966, as amended.**
- (2) A county courthouse is located within the district.**
- (3) A historic opera house listed on the National Register of Historic Places is located within the district.**
- (4) A historic jail and sheriff's house listed on the National Register of Historic Places is located within the district.**

The legislative body of the municipality in which the district is located shall recommend to the commission sites that are eligible to be permit premises. The commission shall consider, but is not required to follow, the municipal legislative body's recommendation in issuing a permit under this subsection. An applicant is not eligible for a permit if, less than two (2) years before the date of the application, the applicant sold a retailer's permit that was subject to IC 7.1-3-22 and that was for premises located within the district described in this section or within five hundred (500) feet of the district. A permit issued under this subsection shall not be transferred. The cost of an initial permit issued under this subsection is six thousand dollars (\$6,000).

SECTION 49. IC 7.1-3-20-16.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16.1. (a) This section applies to a municipal riverfront development project authorized under section 16(d) of this chapter.

(b) In order to qualify for a permit, an applicant must demonstrate that the municipal riverfront development project area where the permit is to be located meets the following criteria:

- (1) The project boundaries must border on at least one (1) side of a river.
- (2) The proposed permit premises may not be located more than:

- (A) one thousand five hundred (1,500) feet; or
- (B) three (3) city blocks;

from the river, whichever is greater. However, if the area adjacent to the river is incapable of being developed because the area is in a floodplain, or for any other reason that prevents the area from being developed, the distances described in clauses (A) and (B) are measured from the city blocks located nearest to the river that are capable of being developed.

- (3) The permit premises are located within:
 - (A) an economic development area, a blighted area, an urban renewal area, or a redevelopment area established under IC 36-7-14, IC 36-7-14.5, or IC 36-7-15.1; ~~or~~
 - (B) an economic development project district under IC 36-7-15.2 or IC 36-7-26; ~~or~~
 - (C) a community revitalization enhancement district designated under IC 36-7-13-12.1.**

- (4) The project must be funded in part with state and city

money.

(5) The boundaries of the municipal riverfront development project must be designated by ordinance or resolution by the legislative body (as defined in IC 36-1-2-9(3) or IC 36-1-2-9(4)) of the city in which the project is located.

(c) Proof of compliance with subsection (b) must consist of the following documentation, which is required at the time the permit application is filed with the commission:

- (1) A detailed map showing:
 - (A) definite boundaries of the entire municipal riverfront development project; and
 - (B) the location of the proposed permit within the project.
- (2) A copy of the local ordinance or resolution of the local governing body authorizing the municipal riverfront development project.
- (3) Detailed information concerning the expenditures of state and city funds on the municipal riverfront development project.

(d) Notwithstanding subsection (b), the commission may issue a permit for premises, the location of which does not meet the criteria of subsection (b)(2), if all the following requirements are met:

- (1) All other requirements of this section and section 16(d) of this chapter are satisfied.
- (2) The proposed premises is located not more than:
 - (A) three thousand (3,000) feet; or
 - (B) six (6) blocks;

from the river, whichever is greater. However, if the area adjacent to the river is incapable of being developed because the area is in a floodplain, or for any other reason that prevents the area from being developed, the distances described in clauses (A) and (B) are measured from the city blocks located nearest to the river that are capable of being developed.

(3) The permit applicant satisfies the criteria established by the commission by rule adopted under IC 4-22-2. The criteria established by the commission may require that the proposed premises be located in an area or district set forth in subsection (b)(3).

(4) The permit premises may not be located less than two hundred (200) feet from facilities owned by a state educational institution (as defined in IC 20-12-0.5-1).

(e) A permit may not be issued if the proposed permit premises is the location of an existing three-way permit subject to IC 7.1-3-22-3.

SECTION 50. IC 8-9.5-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. As used in this chapter, "authority" means:

- (1) an authority or agency established under IC 8-1-2.2 or IC 8-9.5 through IC 8-23;
- (2) the commission established under IC 4-13.5;
- (3) only in connection with a program established under IC 13-18-13 or IC 13-18-21, the bank established under IC 5-1.5; ~~or~~
- (4) a fund or program established under IC 13-18-13 or IC 13-18-21;
- (5) the authority established under IC 4-4-11; or**
- (6) the authority established under IC 5-1-17.**

SECTION 51. IC 8-15-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) In order to remove the handicaps and hazards on the congested highways in Indiana, to facilitate vehicular traffic throughout the state, to promote the agricultural and industrial development of the state, and to provide for the general welfare by the construction of modern express highways embodying safety devices, including center division, ample shoulder widths, long sight distances, multiple lanes in each direction, and grade separations at intersections with other highways and railroads, the authority may:

- (1) construct, reconstruct, maintain, repair, and operate toll road projects at such locations as shall be approved by the governor;
- (2) in accordance with such alignment and design standards as shall be approved by the authority and subject to IC 8-9.5-8-10, issue toll road revenue bonds of the state payable solely from funds pledged for their payment, as authorized by this chapter, to pay the cost of such projects;
- (3) finance, develop, construct, reconstruct, improve, or maintain ~~public~~ improvements ~~such as roads and streets;~~

sewerlines, waterlines, and sidewalks for manufacturing, or commercial, or public transportation activities within a county through which a toll road passes; if these improvements are within the county and are within an area that is located:

- (A) ~~ten (10) miles on either side of the center line of a toll road project; or~~
- (B) ~~two (2) miles on either side of the center line of any limited access highway that interchanges with a toll road project;~~

(4) in cooperation with the Indiana department of transportation or a political subdivision, construct, reconstruct, or finance the construction or reconstruction of an arterial highway or an arterial street that is located within ~~ten (10) miles of the center line of a county through which a toll road project passes and that:~~

- (A) interchanges with a toll road project; or
- (B) intersects with a road or a street that interchanges with a toll road project;
- (5) ~~assist in finance improvements necessary for developing existing transportation corridors in northwestern Indiana; and~~
- (6) ~~exercise these powers in participation with any governmental entity or with any individual, partnership, limited liability company, or corporation.~~

(b) Notwithstanding subsection (a), the authority shall not construct, maintain, operate, nor contract for the construction, maintenance, or operation of transient lodging facilities on, or adjacent to, such toll road projects.

SECTION 52. IC 8-15-2-14.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14.5. Subject to the provisions and requirements of any trust agreement providing for the issuance of toll road revenue bonds and only to the extent permitted by such trust agreement, the authority shall fix the tolls for any toll road under its jurisdiction. ~~so that, to the extent feasible, the tolls for any class of traffic shall be substantially uniform according to the mileage between interchanges. No reduced rate of toll shall be allowed within any such class except through the use of commutation or other tickets or privileges based upon frequency or volume of use.~~

SECTION 53. IC 8-15-2-14.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14.7. (a) As used in this section, "development authority" refers to the development authority established under IC 36-7.5-2-1.

(b) Subject to the trust agreement of any outstanding bonds and subject to the requirements of subsection (d), the authority shall distribute to the development authority in calendar year 2006 and calendar year 2007 from revenues accruing to the authority from the toll road at least five million dollars (\$5,000,000) and not more than ten million dollars (\$10,000,000) each year. The amount of the distribution for a year shall be determined by the authority. The amount to be distributed each year shall be distributed in equal quarterly amounts before the last business day of January, April, July, and October of 2006 and 2007. The amounts distributed under this subsection shall be deposited in the development authority fund established under IC 36-7.5-4-1.

(c) Subject to the trust agreement of any outstanding bonds and subject to the requirements of subsections (d) and (e), after 2007 the authority may distribute to the development authority amounts from revenues accruing to the authority from the toll road. The amount of any distribution for a year shall be determined by the authority. Any amounts to be distributed for the year under this subsection shall be distributed in equal quarterly amounts before the last business day of January, April, July, and October of the year. Any amounts distributed under this subsection shall be deposited in the development authority fund established under IC 36-7.5-4-1.

(d) A distribution may be made by the authority to the development authority under subsection (b) or (c) only if all transfers required from cities and counties to the development authority under IC 36-7.5-4-2 have been made.

(e) A distribution may be made by the authority to the development authority under subsection (c) only after the budget committee has reviewed the development authority's

comprehensive strategic development plan under IC 36-7.5-3-4 and the director of the office of management and budget has approved the comprehensive strategic development plan.

(f) If the Indiana Toll Road is sold or leased before January 1, 2008 (other than a lease to the department), and the sale or lease agreement does not require the purchaser or lessee to continue making the distributions required by subsection (b), the treasurer of state shall pay an amount equal to the greater of zero (0) or the result of:

- (1) twenty million dollars (\$20,000,000); minus
- (2) any amounts transferred to the development authority under this subsection before the sale or lease;

from the state general fund to the development authority fund established under IC 36-7.5-4-1.

(g) Amounts distributed or paid to the development authority under this section may be used for any purpose of the development authorized under IC 36-7.5.

(h) The amounts necessary to make any distributions or payments required or authorized by this section are appropriated.

SECTION 54. IC 9-13-2-170 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 170. "Special group" means:

- (1) a class or group of persons that the bureau finds:

~~(1) that:~~

- (A) have made significant contributions to the United States, Indiana, or the group's community or
- ~~(B) are descendants of native or pioneer residents of Indiana;~~
- ~~(2) (B) are organized as a nonprofit organization (as defined under Section 501(c) of the Internal Revenue Code);~~
- ~~(3) (C) are organized for nonrecreational purposes; and~~
- ~~(4) (D) are organized as a separate, unique organization or as a coalition of separate, unique organizations; or~~

- (2) a National Football League franchised professional football team.

SECTION 55. IC 9-18-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. (a) A person who is the registered owner or lessee of a:

- (1) passenger motor vehicle;
- (2) motorcycle;
- (3) recreational vehicle; or
- (4) vehicle registered as a truck with a declared gross weight of not more than:

- (A) eleven thousand (11,000) pounds;
- (B) nine thousand (9,000) pounds; or
- (C) seven thousand (7,000) pounds;

registered with the bureau or who makes an application for an original registration or renewal registration of a vehicle may apply to the bureau for a personalized license plate to be affixed to the vehicle for which registration is sought instead of the regular license plate.

(b) A person who:

- (1) is the registered owner or lessee of a vehicle described in subsection (a); and

- (2) is eligible to receive a license plate for the vehicle under:

- (A) IC 9-18-17 (prisoner of war license plates);
- (B) IC 9-18-18 (disabled veteran license plates);
- (C) IC 9-18-19 (purple heart license plates);
- (D) IC 9-18-20 (Indiana National Guard license plates);
- (E) IC 9-18-21 (Indiana Guard Reserve license plates);
- (F) IC 9-18-22 (license plates for persons with disabilities);
- (G) IC 9-18-23 (amateur radio operator license plates);
- (H) IC 9-18-24 (civic event license plates);
- (I) IC 9-18-25 (special group recognition license plates);
- (J) IC 9-18-29 (environmental license plates);
- (K) IC 9-18-30 (kids first trust license plates);
- (L) IC 9-18-31 (education license plates);
- (M) IC 9-18-32.2 (drug free Indiana trust license plates);
- (N) IC 9-18-33 (Indiana FFA trust license plates);
- (O) IC 9-18-34 (Indiana firefighter license plates);
- (P) IC 9-18-35 (Indiana food bank trust license plates);
- (Q) IC 9-18-36 (Indiana girl scouts trust license plates);
- (R) IC 9-18-37 (Indiana boy scouts trust license plates);
- (S) IC 9-18-38 (Indiana retired armed forces member license

plates);
 (T) IC 9-18-39 (Indiana antique car museum trust license plates);
 (U) IC 9-18-40 (D.A.R.E. Indiana trust license plates);
 (V) IC 9-18-41 (Indiana arts trust license plates);
 (W) IC 9-18-42 (Indiana health trust license plates);
 (X) IC 9-18-43 (Indiana mental health trust license plates);
 (Y) IC 9-18-44 (Indiana Native American Trust license plates);
 (Z) IC 9-18-45.8 (Pearl Harbor survivor license plates);
 (AA) IC 9-18-46.2 (Indiana state educational institution trust license plates);
 (BB) IC 9-18-47 (Lewis and Clark bicentennial license plates); **or**
 (CC) IC 9-18-48 (Riley Children's Foundation license plates); **or**
 (DD) IC 9-18-49 (National Football League franchised professional football team license plates);

may apply to the bureau for a personalized license plate to be affixed to the vehicle for which registration is sought instead of the regular special recognition license plate.

SECTION 56. IC 9-18-49 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]:

Chapter 49. National Football League Franchised Professional Football Team License Plates

Sec. 1. The bureau shall design and issue a National Football League franchised football team license plate for a National Football League franchised football team from which the bureau secures an agreement for the production and sale of license plates. A National Football League franchised football team license plate shall be designed and issued as a special group recognition license plate under IC 9-18-25.

Sec. 2. The bureau shall:

- (1) negotiate for the purpose of entering; **or**
- (2) delegate the authority to enter;

into license agreements with a professional sports franchise in order to design and issue a National Football League franchised football team license plate authorized under section 1 of this chapter.

Sec. 3. After December 31, 2005, a person who is eligible to register a motor vehicle under this title is eligible to receive a specified National Football League franchised football team license plate issued under a licensing agreement entered into under section 2 of this chapter with a specified National Football League franchised football team upon doing the following:

- (1) Completing an application for a specified National Football League franchised football team license plate.
- (2) Paying the fees under section 4 of this chapter.

Sec. 4. (a) The fees for a National Football League franchised football team license plate are as follows:

- (1) The appropriate fees under IC 9-29-5-38(d)(1), IC 9-29-5-38(d)(2), and IC 9-29-5-38(d)(3).
- (2) An annual fee of twenty dollars (\$20).

(b) The annual fee described in subsection (a)(2) shall be:

- (1) collected by the bureau; and
- (2) deposited in the capital projects fund established by section 5 of this chapter.

Sec. 5. (a) The capital projects fund is established.

(b) The treasurer of state shall invest the money in the capital projects fund not currently needed to meet the obligations of the capital projects fund in the same manner as other public funds are invested. Money in the fund is continuously appropriated for the purposes of this section.

(c) The budget director shall administer the capital projects fund. Expenses of administering the capital projects fund shall be paid from money in the capital projects fund.

(d) On:

- (1) June 30 of every year after June 30, 2006; **or**
- (2) any other date designated by the budget director;

an amount designated by the budget director shall be transferred from the fund to the state general fund, a capital improvement board of managers created by IC 36-10-9, or the designee chosen

by the budget director under IC 5-1-17-28.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 6. The budget agency shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 57. IC 9-29-5-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 38. (a) Except as provided in **subsection subsections (c) and (d)**, vehicles registered under IC 9-18-25 are subject to the following:

- (1) An appropriate annual registration fee.
- (2) An annual supplemental fee of ten dollars (\$10).
- (3) Any other fee or tax required of a person registering a vehicle under this title.

(b) The bureau shall distribute all money collected under the annual supplemental fee under subsection (a)(2) **or (d)(2)** as follows:

- (1) Five dollars (\$5) from each registration is appropriated to the bureau of motor vehicles for the purpose of administering IC 9-18-25.
- (2) Five dollars (\$5) from each registration shall be deposited in the state license branch fund under IC 9-29-14.

(c) A vehicle registered under IC 9-18-25 that is owned by a former prisoner of war or by the prisoner's surviving spouse is exempt from the annual registration fee and the annual supplemental fee.

(d) A motor vehicle that is registered and for which is issued a special group recognition license plate under IC 9-18-25 and IC 9-18-49 is subject to the following:

- (1) An appropriate annual registration fee.
- (2) An annual supplemental fee of ten dollars (\$10).
- (3) Any other fee or tax required of a person registering a vehicle under this title.
- (4) The annual fee of twenty dollars (\$20) imposed by IC 9-18-49-4(a)(2).

SECTION 58. IC 13-21-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) A controller selected under section 9 of this chapter shall do the following:

- (1) Be the official custodian of all district money **and, subject to the terms of any resolution or trust indenture under which bonds are issued under this article, deposit and invest all district money in the same manner as other county money is deposited and invested under IC 5-13.**
- (2) Be responsible to the board for the fiscal management of the district.
- (3) Be responsible for the proper safeguarding and accounting of the district's money.
- (4) Subject to subsection (c), issue warrants approved by the board after a properly itemized and verified claim has been presented to the board on a claim docket.
- (5) Make financial reports of district money and present the reports to the board for the board's approval.
- (6) Prepare the district's annual budget.
- (7) Perform any other duties:

- (A) prescribed by the board; and
- (B) consistent with this chapter.

(b) A controller selected under section 9 of this chapter:

- (1) does not exercise any sovereign authority of the state; and
- (2) does not hold a lucrative office for purposes of Article 2, Section 9 of the Constitution of the State of Indiana.

(c) The board may, by resolution, authorize the controller to make claim payments for:

- (1) payroll;
- (2) the state solid waste management fee imposed by IC 13-20-22-1; and
- (3) certain specific vendors identified in the resolution;

without the claims being first approved by the board if before payment the claims are approved in writing by the chairperson of the board or in the absence of the chairperson another member of the board designated by the chairperson. The claims shall be reviewed and allowed by the board at the board's next regular or special meeting.

SECTION 59. IC 13-21-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A board that has imposed fees under section 1 of this chapter shall establish and continuously maintain a separate fund under this section to be known

as the "_____ district solid waste management fund".

(b) All fees remitted to the district under section 1 of this chapter shall be deposited in the fund.

(c) Money in the fund may be used only for the following purposes:

- (1) To pay expenses of administering the fund.
- (2) To pay costs associated with the development and implementation of the district plan.

(d) The controller of the district shall administer a fund established under this section. Money in the fund that is not currently needed for the purposes set forth in subsection (c) ~~may~~ **shall be deposited and** invested in the same manner as other county money ~~may be~~ **is deposited and invested under IC 5-13.** Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a district's fiscal year does not revert to:

- (1) a county general fund; or
- (2) any other fund.

(e) The controller of a district shall:

- (1) file an individual surety bond; or
- (2) revise an existing bond;

in a sufficient amount determined under IC 5-4-1-18 to reflect the liability associated with the handling of the district's money.

SECTION 60. IC 16-44-2-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) Except as provided in subsection (b), fees for the inspection of gasoline or kerosene shall be at the rate of ~~forty~~ **fifty** cents ~~(\$0.40)~~ **(\$0.50)** per barrel (fifty (50) gallons) on all gasoline or kerosene received in Indiana less deductions provided in this section.

(b) A fee for inspection of gasoline or kerosene may not be charged for the following:

- (1) On transport or tank car shipments direct to the federal government.
- (2) On gasoline or kerosene received and subsequently exported from Indiana or returned to refineries or marine or pipeline terminals in Indiana.

(c) Fees shall be paid to the state department by the person receiving gasoline or kerosene in Indiana at the time gasoline or kerosene products are received, unless the person receiving the gasoline or kerosene is licensed as a distributor under the gasoline tax law (IC 6-6-1.1). In that case, the person in receipt of the gasoline or kerosene shall do the following:

- (1) Include in the person's monthly gasoline tax report a statement of all gasoline and kerosene received during the preceding calendar month on which inspection fees are due.
- (2) Remit the amount of the inspection fees at the same time the monthly motor fuel tax report is due.

(d) A refiner or other person supplying gasoline or kerosene to the first receiver in Indiana may elect to pay the fees monthly on all gasoline or kerosene supplied to persons in Indiana not licensed as distributors under the gasoline tax law (IC 6-6-1.1). If the supplier is not licensed as a distributor under the gasoline tax law of Indiana (IC 6-6-1.1), the supplier shall, as a condition precedent to such election, file with the state department a corporate surety bond that meets the following conditions:

- (1) Is in the form and amount that the state department determines, not to exceed two thousand dollars (\$2,000).
- (2) Is conditioned that the supplier does the following:
 - (A) Reports all gasoline and kerosene supplied by the supplier to persons in Indiana not licensed as distributors under the gasoline tax law (IC 6-6-1.1).
 - (B) Pays inspection fees monthly on or before the twenty-fifth day of each calendar month for the preceding calendar month.

(e) A person taking credit for gasoline or kerosene exported or returned to a refinery or terminal shall substantiate that credit in the manner that the state department reasonably requires by rule.

(f) A distributor who fails to file a monthly report and pay the tax due as required by this chapter is subject to a penalty of five percent (5%) of the amount of unpaid tax due and interest on the unpaid tax and penalty at the rate of eight percent (8%) annually. However, if a delay not exceeding ten (10) days is due to a mistake, an accident, or an oversight without intent to avoid payment, the administrator may waive the penalty and interest.

SECTION 61. IC 16-44-2-18.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18.5. (a) As used in this section, "special fuel" has the meaning set forth in IC 6-6-2.5-22, except that the term does not include kerosene.

(b) Except as provided in subsection (c), fees for the inspection of special fuel shall be at the rate of fifty cents (\$0.50) per barrel (fifty (50) gallons) on all special fuel sold or used in producing or generating power for propelling motor vehicles in Indiana less deductions provided in this section.

(c) A fee for the inspection of special fuel may not be charged with respect to special fuel that is exempt from the special fuel tax under IC 6-6-2.5-30.

(d) The fee imposed by this chapter on special fuel sold or used in producing or generating power for propelling motor vehicles in Indiana shall be collected and remitted to the state at the same time, by the same person, and in accordance with the same requirements for collection and remittance of the special fuels tax under IC 6-6-2.5-35.

(e) Fees collected under this section shall be deposited by the department in the underground petroleum storage tank excess liability trust fund established by IC 13-23-7-1.

(f) A person who receives a refund of special fuel tax under IC 6-6-2.5 is also entitled to a refund of fees paid under this section if:

- (1) the fees were paid with respect to special fuel that was used for an exempt purpose described in IC 6-6-2.5-30; and
- (2) the person submits to the state department of revenue a claim for a refund, in the form prescribed by the state of department of revenue, that includes the following information:

(A) Any evidence requested by the state department of revenue concerning the person's:

- (i) payment of the fee imposed by this section; and
- (ii) receipt of a refund of special fuel taxes from the state department of revenue under IC 6-6-2.5.

(B) Any other information reasonably requested by the state department of revenue.

The state department of revenue may make any investigation it considers necessary before refunding fees to a person.

SECTION 62. IC 21-2-21-1.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.8. (a) For purposes of this section, "retirement or severance liability" means the payments anticipated to be required to be made to employees of a school corporation upon or after termination of the employment of the employees by the school corporation under an existing or previous employment agreement.

(b) This section applies to each school corporation that:

- (1) did not issue bonds under IC 20-5-4-1.7 before its repeal; or
- (2) issued bonds under IC 20-5-4-1.7 before April 14, 2003.

(c) In addition to the purposes set forth in section 1 of this chapter, a school corporation described in subsection (b) may issue bonds to implement solutions to contractual retirement or severance liability. The issuance of bonds for this purpose is subject to the following conditions:

- (1) The school corporation may issue bonds under this section only one (1) time.
- (2) The school corporation must issue the bonds before July 1, 2006.
- (3) The solution to which the bonds are contributing must be reasonably expected to reduce the school corporation's unfunded contractual liability for retirement or severance payments as it existed on June 30, 2001.
- (4) The amount of the bonds that may be issued for the purpose described in this section may not exceed:

- (A) two percent (2%) of the true tax value of property in the school corporation, for a school corporation that did not issue bonds under IC 20-5-4-1.7 before its repeal; or
- (B) the remainder of:

- (i) two percent (2%) of the true tax value of property in the school corporation as of the date that the school corporation issued bonds under IC 20-5-4-1.7; minus

(ii) the amount of bonds that the school corporation issued under IC 20-5-4-1.7;

for a school corporation that issued bonds under IC 20-5-4-1.7 before April 14, 2003.

(5) Each year that a debt service levy is needed under this section, the school corporation shall reduce the total property tax levy for the school corporation's transportation, school bus replacement, capital projects, or art association and historical society funds in an amount equal to the property tax levy needed for the debt service under this section. The property tax rate for each of these funds shall be reduced each year until the bonds are retired.

(6) The school corporation shall establish a separate debt service fund for repayment of the bonds issued under this section.

(d) Bonds issued for the purpose described in this section shall be issued in the same manner as other bonds of the school corporation.

(e) Bonds issued under this section are not subject to the petition and remonstrance process under IC 6-1.1-20 or to the limitations contained in IC 36-1-15.

SECTION 63. IC 20-12-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. (a) The Ball State University board of trustees, Indiana State University board of trustees, the trustees of Indiana University, the trustees of Purdue University, and the University of Southern Indiana board of trustees, each as to its respective institution, shall have the power and duty:

(1) to govern the disposition and method and purpose of use of the property owned, used, or occupied by the institution, including the governance of travel over and the assembly upon the property;

(2) to govern, by specific regulation and other lawful means, the conduct of students, faculty, employees, and others while upon the property owned, used, or occupied by the institutions;

(3) to govern, by lawful means, the conduct of its students, faculty, and employees, wherever the conduct might occur, to the end of preventing unlawful or objectionable acts that seriously threaten the ability of the institution to maintain its facilities available for performance of its educational activities or that are in violation of the reasonable rules and standards of the institution designed to protect the academic community from unlawful conduct or conduct presenting a serious threat to person or property of the academic community;

(4) to dismiss, suspend, or otherwise punish any student, faculty member, or employee of the institution who violates the institution's rules or standards of conduct, after determination of guilt by lawful proceedings;

(5) to prescribe the fees, tuition, and charges necessary or convenient to the furthering of the purposes of the institution and to collect the prescribed fees, tuition, and charges;

(6) to prescribe the conditions and standards of admission of students upon the bases as are in its opinion in the best interests of the state and the institution;

(7) to prescribe the curricula and courses of study offered by the institution and define the standards of proficiency and satisfaction within the curricula and courses established by the institution;

(8) to award financial aid to students and groups of students out of the available resources of the institution through scholarships, fellowships, loans, remissions of fees, tuitions, charges, or other funds on the basis of financial need, excellence of academic achievement, or potential achievement or any other basis as the governing board may find to be reasonably related to the educational purposes and objectives of the institution and in the best interest of the institution and the state;

(9) to cooperate with other institutions to the end of better assuring the availability and utilization of its total resources and opportunities to provide excellent educational opportunity for all persons;

(10) to establish and carry out written policies for the investment of the funds of the institution in the manner provided by IC 30-4-3-3; ~~and~~

(11) to lease to any corporation, limited liability company,

partnership, association, or individual real estate title to which is in the name of an institution or in the name of the state for the use and benefit of the leasing institution; ~~and~~

(12) to adopt policies and standards for making property owned by the institution reasonably available to be used free of charge as locations for the production of motion pictures.

(b) A lease may be for such term and for such rental, either nominal or otherwise, as the board determines to be in the best interest of the institution. No lease shall be executed under this section for a term exceeding four (4) years unless the execution is approved by the governor and by the ~~state~~ budget agency. The universities shall be exempt from all property taxes on any real estate leased under this section, and the lessee shall be liable for property taxes on the leased real estate as if the real estate were owned by the lessee in fee simple, unless the lessee is a student living in university-owned facilities.

(c) This section shall not be construed to deny any tax exemption that a lessee would have under other laws if the lessee were the owner in fee simple of the real estate.

SECTION 64. IC 20-26-5-22.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22.5. (a) A school corporation may participate in the establishment of a public school foundation.

(b) The governing body of a school corporation may receive the proceeds of a grant, a restricted gift, an unrestricted gift, a donation, an endowment, a bequest, a trust, an agreement to share tax revenue received by a city or county under IC 4-33-12-6 or IC 4-33-13, or other funds not generated from taxes levied by the school corporation to create a foundation under the following conditions:

(1) The foundation is:

(A) exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and

(B) organized as an Indiana nonprofit corporation for the purposes of providing educational funds for scholarships, teacher education, capital programs, and special programs for school corporations.

(2) Except as provided in subdivision (3), the foundation retains all rights to a donation, including investment powers. The foundation may hold a donation as a permanent endowment.

(3) The foundation agrees to do the following:

(A) Distribute the income from a donation only to the school corporation.

(B) Return a donation to the general fund of the school corporation if the foundation:

(i) loses the foundation's status as a foundation exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code;

(ii) is liquidated; or

(iii) violates any condition set forth in this subdivision.

(c) A school corporation may use the proceeds received under this section from a foundation only for educational purposes of the school corporation described in subsection (b)(1)(B).

(d) The governing body of the school corporation may appoint members to the foundation.

(e) The treasurer of the governing body of the school corporation may serve as the treasurer of the foundation.

SECTION 65. IC 22-4-37-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Should the Congress of the United States ~~either~~ amend, ~~or~~ repeal, ~~or~~ authorize the implementation of a demonstration project under 29 U.S.C. 49 et seq., 26 U.S.C. 3301 through 3311, 42 U.S.C. 301 et seq., or 26 U.S.C. 3101 through 3504, or any statute or statutes supplemental to or in lieu thereof or any part or parts of ~~either or all~~ of said statutes, or should ~~either~~ any or all of said statutes or any part or parts thereof be held invalid, to the end and with such effect that appropriations of funds by the said Congress and grants thereof to the state for the payment of costs of administration of the department of workforce development are or no longer shall be available for such purposes, ~~or~~ should the primary responsibility for the administration of 26

U.S.C. 3301 through 26 U.S.C. 3311 be transferred to the state as a demonstration project authorized by Congress, or should employers in Indiana subject to the payment of tax under 26 U.S.C. 3301 through 3311 be granted full credit upon such tax for contributions or taxes paid to the department of workforce development, then, and in such case beginning with the effective date of such change in liability for payment of such federal tax and for each year thereafter, the normal contribution rate under this article shall be established by the department of workforce development and may not exceed three and one-tenth one-half percent (3.1%) (3.5%) per year of each such employer's payroll subject to contribution. With respect to each employer having a rate of contribution for such year pursuant to terms of IC 22-4-11-2(b)(2)(A), IC 22-4-11-2(b)(2)(B), and IC 22-4-11-3, and IC 22-4-11-3.3, to the rate of contribution, as determined for such year in which such change occurs, shall be added four-tenths of one not more than eight-tenths percent (0.4%) (0.8%) as prescribed by the department of workforce development.

(b) The amount of the excess of tax for which such employer is or may become liable by reason of this section over the amount which such employer would pay or become liable for except for the provisions of this section, together with any interest or earnings thereon, shall be paid and transferred into the employment and training services administration fund to be disbursed and paid out under the same conditions and for the same purposes as is other money provided to be paid into such fund. If the commissioner shall determine that as of January 1 of any year there is an excess in said fund over the money and funds required to be disbursed therefrom for the purposes thereof for such year, then and in such cases an amount equal to such excess, as determined by the commissioner, shall be transferred to and become part of the unemployment insurance benefit fund, and such funds shall be deemed to be and are hereby appropriated for the purposes set out in this section.

SECTION 66. IC 36-7-31-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 10. A commission may establish as part of a professional sports development area any facility:

- (1) that is used in the training of a team engaged in professional sporting events; or
- (2) that is:
 - (A) financed in whole or in part by:
 - (i) notes or bonds issued by a political subdivision or issued under IC 36-10-9 or IC 36-10-9.1; or
 - (ii) a lease or other agreement under IC 5-1-17; and
 - (B) used to hold a professional sporting event.

The tax area may include a facility described in this section and any parcel of land on which the facility is located. An area may contain noncontiguous tracts of land within the county.

SECTION 67. IC 36-7-31-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 11. (a) A tax area must be initially established before July 1, 1999, according to the procedures set forth for the establishment of an economic development area under IC 36-7-15.1. A tax area may be changed (including to the exclusion or inclusion of a facility described in this chapter) or the terms governing the tax area may be revised in the same manner as the establishment of the initial tax area. However, after May 14, 2005:

- (1) a tax area may be changed only to include the site or future site of a facility that is or will be the subject of a lease or other agreement entered into between the capital improvement board and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26; and
- (2) the terms governing a tax area may be revised only with respect to a facility described in subdivision (1).

(b) In establishing or changing the tax area or revising the terms governing the tax area, the commission must make the following findings instead of the findings required for the establishment of economic development areas:

- (1) That a project to be undertaken or that has been undertaken in the tax area is for a facility at which a professional sporting event or a convention or similar event will be held.
- (2) That the project to be undertaken or that has been

undertaken in the tax area will benefit the public health and welfare and will be of public utility and benefit.

(3) That the project to be undertaken or that has been undertaken in the tax area will protect or increase state and local tax bases and tax revenues.

(c) The tax area established by the commission under this chapter is a special taxing district authorized by the general assembly to enable the county to provide special benefits to taxpayers in the tax area by promoting economic development that is of public use and benefit.

SECTION 68. IC 36-7-31-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 14. (a) A tax area must be established by resolution. A resolution establishing a tax area must provide for the allocation of covered taxes attributable to a taxable event or covered taxes earned in the tax area to the professional sports development area fund established for the county. The allocation provision must apply to the entire tax area. The resolution must provide that the tax area terminates not later than December 31, 2027.

(b) All of the salary, wages, bonuses, and other compensation that are:

- (1) paid during a taxable year to a professional athlete for professional athletic services;
- (2) taxable in Indiana; and
- (3) earned in the tax area;

shall be allocated to the tax area if the professional athlete is a member of a team that plays the majority of the professional athletic events that the team plays in Indiana in the tax area.

(c) Except as provided by section 14.1 of this chapter, the total amount of state revenue captured by the tax area may not exceed five million dollars (\$5,000,000) per year for twenty (20) consecutive years.

(d) The resolution establishing the tax area must designate the facility and the facility site for which the tax area is established and covered taxes will be used.

(e) The department may adopt rules under IC 4-22-2 and guidelines to govern the allocation of covered taxes to a tax area.

SECTION 69. IC 36-7-31-14.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 14.1. (a) The budget director appointed under IC 4-12-1-3 may determine that, commencing July 1, 2007, there may be captured in the tax area up to eleven million dollars (\$11,000,000) per year in addition to the up to five million dollars (\$5,000,000) of state revenue to be captured by the tax area under section 14 of this chapter, for up to thirty-four (34) consecutive years. The budget director's determination must specify that the termination date of the tax area for purposes of the collection of the additional eleven million dollars (\$11,000,000) per year is extended to not later than:

- (1) January 1, 2041; or
- (2) January 1, 2010, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under IC 5-1-17-26.

Following the budget director's determination, and commencing July 1, 2007, the maximum total amount of revenue captured by the tax area for years ending before January 1, 2041, shall be sixteen million dollars (\$16,000,000) per year.

(b) The additional revenue captured pursuant to a determination under subsection (a) shall be distributed to the capital improvement board or its designee. So long as there are any current or future obligations owed by the capital improvement board to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency under a lease or another agreement entered into between the capital improvement board and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26, the capital improvement board or its designee shall deposit the additional revenue received under this subsection in a special fund, which may be used only for the payment of the obligations described in this subsection.

SECTION 70. IC 36-7-31-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 21. Except as

provided in section 14.1 of this chapter, the capital improvement board may use money distributed from the fund only to construct and equip a capital improvement that is used for a professional sporting event, including the financing or refinancing of a capital improvement or the payment of lease payments for a capital improvement.

SECTION 71. IC 36-7-31-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 23. This chapter expires December 31, ~~2027~~, 2040.

SECTION 72. IC 36-7-31.3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 9. (a) A tax area must be initially established by resolution:

- (1) except as provided in subdivision (2) before July 1, 1999; or
- (2) before January 1, 2005, in the case of:
 - (A) ~~in the case of~~ a second class city; or
 - (B) the city of Marion;

according to the procedures set forth for the establishment of an economic development area under IC 36-7-14. **Before May 15, 2005**, a tax area may be changed or the terms governing the tax area revised in the same manner as the establishment of the initial tax area. **After May 14, 2005, a tax area may not be changed and the terms governing a tax area may not be revised.** Only one (1) tax area may be created in each county.

(b) In establishing the tax area, the designating body must make the following findings instead of the findings required for the establishment of economic development areas:

- (1) Except for a tax area in a city having a population of:
 - (A) more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000); or
 - (B) more than ninety thousand (90,000) but less than one hundred five thousand (105,000);

there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used by a professional sports franchise for practice or competitive sporting events. A tax area to which this subdivision applies may also include a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a)(2) of this chapter.

- (2) For a tax area in a city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000), there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a) of this chapter.
- (3) For a tax area in a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000), there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a)(2) of this chapter.
- (4) The capital improvement that will be undertaken or that has been undertaken in the tax area will benefit the public health and welfare and will be of public utility and benefit.
- (5) The capital improvement that will be undertaken or that has been undertaken in the tax area will protect or increase state and local tax bases and tax revenues.

(c) The tax area established under this chapter is a special taxing district authorized by the general assembly to enable the designating body to provide special benefits to taxpayers in the tax area by promoting economic development that is of public use and benefit.

SECTION 73. IC 36-7.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

ARTICLE 7.5. NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY

Chapter 1. Definitions

Sec. 1. Except as otherwise provided, the definitions in this chapter apply throughout this article.

Sec. 2. "Airport authority" refers to an airport authority established under IC 8-22-3 in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

Sec. 3. "Airport authority project" means a project that can be financed with the proceeds of bonds issued by an airport

authority under IC 8-22-3.

Sec. 4. "Airport development authority" refers to an airport development authority established under IC 8-22-3.7 in a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).

Sec. 5. "Bonds" means bonds, notes, or other evidences of indebtedness issued by the development authority.

Sec. 6. "Commuter transportation district" refers to a commuter transportation district that:

- (1) is established under IC 8-5-15; and
- (2) has among its purposes the maintenance, operation, and improvement of passenger service over the Chicago, South Shore, and South Bend Railroad and any extension of that railroad.

Sec. 7. "Commuter transportation district project" means a project that can be financed with the proceeds of bonds issued by a commuter transportation district under IC 8-5-15.

Sec. 8. "Development authority" refers to the northwest Indiana regional development authority established by IC 36-7.5-2-1.

Sec. 9. "Development board" refers to the governing body appointed under IC 36-7.5-2-3 for a development authority.

Sec. 10. "Economic development project" means the following:

- (1) An economic development project described in IC 6-3.5-7-13.1(c).
- (2) A dredging, sediment removal, or channel improvement project.

Sec. 11. "Eligible county" refers to the following counties:

- (1) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).
- (2) A county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000).

Sec. 12. "Eligible political subdivision" means the following:

- (1) An airport authority.
- (2) A commuter transportation district.
- (3) A regional bus authority under IC 36-9-3-2(c).
- (4) A shoreline development commission under IC 36-7-13.5.

Sec. 13. "Project" means an airport authority project, a commuter transportation district project, an economic development project, a regional bus authority project, or a shoreline development commission project.

Sec. 14. "Regional bus authority" means a regional transportation authority operating as a regional bus authority under IC 36-9-3-2(c).

Sec. 15. "Regional bus authority project" means a project that can be financed with the proceeds of bonds issued by a regional bus authority under IC 36-9-3.

Sec. 16. "Shoreline development commission" means the commission established by IC 36-7-13.5-2.

Sec. 17. "Shoreline development commission project" means a project that can be financed with the proceeds of bonds issued by a shoreline development commission.

Chapter 2. Development Authority and Board

Sec. 1. The northwest Indiana regional development authority is established as a separate body corporate and politic to carry out the purposes of this article by:

- (1) acquiring, constructing, equipping, owning, leasing, and financing projects and facilities for lease to or for the benefit of eligible political subdivisions under this article; and
- (2) funding and developing the Gary/Chicago International Airport expansion and other airport authority projects, commuter transportation district and other rail projects and services, regional bus authority projects and services, shoreline development projects and activities, and economic development projects in northwestern Indiana.

Sec. 2. The development authority may carry out its powers and duties under this article in an eligible county.

Sec. 3. (a) The development authority is governed by the development board appointed under this section.

(b) The development board is composed of the following seven (7) members:

(1) Two (2) members appointed by the governor. One (1) of the members appointed by the governor under this subdivision must be an individual nominated under subsection (d). The members appointed by the governor under this subdivision serve at the pleasure of the governor.
 (2) The following members from a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):

(A) One (1) member appointed by the mayor of the largest city in the county in which a riverboat is located.

(B) One (1) member appointed by the mayor of the second largest city in the county in which a riverboat is located.

(C) One (1) member appointed by the mayor of the third largest city in the county in which a riverboat is located.

(D) One (1) member appointed jointly by the county executive and the county fiscal body. A member appointed under this clause may not reside in a city described in clause (A), (B), or (C).

(3) One (1) member appointed jointly by the county executive and county fiscal body of a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000).

(c) A member appointed to the development board must have knowledge and at least five (5) years professional work experience in at least one (1) of the following:

(1) Rail transportation or air transportation.

(2) Regional economic development.

(3) Business or finance.

(d) The mayor of the largest city in a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000) shall nominate three (3) residents of the county for appointment to the development board. One (1) of the governor's initial appointments under subsection (b)(1) must be an individual nominated by the mayor. At the expiration of the member's term, the mayor of the second largest city in the county shall nominate three (3) residents of the county for appointment to the development board. One (1) of the governor's appointments under subsection (b)(1) must be an individual nominated by the mayor. Thereafter, the authority to nominate the three (3) members from which the governor shall make an appointment under subsection (b)(1) shall alternate between the mayors of the largest and the second largest city in the county at the expiration of a member's term.

(e) An individual or entity required to make an appointment under subsection (b) or nominations under subsection (d) must make the initial appointment before September 1, 2005, or the initial nomination before August 15, 2005. If an individual or entity does not make an initial appointment under subsection (b) before September 1, 2005, or the initial nominations required under subsection (d) before September 1, 2005, the governor shall instead make the initial appointment.

Sec. 4. (a) Except as provided in subsection (b) for the initial appointments to the development board, a member appointed to the development board serves a four (4) year term. However, a member serves at the pleasure of the appointing authority. A member may be reappointed to subsequent terms.

(b) The terms of the initial members appointed to the development board are as follows:

(1) The initial member appointed by the governor who is not nominated under section 3(d) of this chapter shall serve a term of four (4) years.

(2) The initial member appointed by the governor who is nominated under section 3(d) of this chapter shall serve a term of two (2) years.

(3) The initial member appointed under section 3(b)(2)(D) of this chapter shall serve a term of three (3) years.

(4) The initial member appointed under section 3(b)(3) of this chapter shall serve a term of three (3) years.

(5) The initial members appointed under section 3(b)(2)(A) through 3(b)(2)(C) of this chapter shall serve a term of two (2) years.

(c) If a vacancy occurs on the development board, the appointing authority that made the original appointment shall fill the vacancy by appointing a new member for the remainder of the vacated term.

(d) Each member appointed to the development board, before entering upon the duties of office, must take and subscribe an oath of office under IC 5-4-1, which shall be endorsed upon the certificate of appointment and filed with the records of the development board.

(e) A member appointed to the development board is not entitled to receive any compensation for performance of the member's duties. However, a member is entitled to a per diem from the development authority for the member's participation in development board meetings. The amount of the per diem is equal to the amount of the per diem provided under IC 4-10-11-2.1(b).

Sec. 5. (a) The member appointed by the governor under section 3(b)(1) of this chapter but not nominated under section 3(d) of this chapter shall serve as chair of the development board until January 2013. At the election under subsection (b) in 2013 and each year thereafter, the chair shall be elected from among the members of the development board.

(b) In January of each year, the development board shall hold an organizational meeting at which the development board shall elect the following officers from the members of the development board:

(1) After December 31, 2012, a chair.

(2) A vice chair.

(3) A secretary-treasurer.

(c) Not more than two (2) members from any particular county may serve as an officer described in subsection (a) or elected under subsection (b). The affirmative vote of at least five (5) members of the development board is necessary to elect an officer under subsection (b).

(d) An officer elected under subsection (b) serves from the date of the officer's election until the officer's successor is elected and qualified.

Sec. 6. (a) The development board shall meet at least quarterly.

(b) The chair of the development board or any two (2) members of the development board may call a special meeting of the development board.

(c) Five (5) members of the development board constitute a quorum.

(d) The affirmative votes of at least five (5) members of the development board are necessary to authorize any action of the development authority.

(e) Notwithstanding any other provision of this article, the minimum of at least five (5) affirmative votes required under subsection (d) to take any of the following actions must include the affirmative vote of the member appointed by the governor who is not nominated under section 3(d) of this chapter:

(1) Making loans, loan guarantees, or grants or providing any other funding or financial assistance for projects.

(2) Acquiring or condemning property.

(3) Entering into contracts.

(4) Employing an executive director or any consultants or technical experts.

(5) Issuing bonds or entering into a lease of a project.

Sec. 7. The development board may adopt the bylaws and rules that the development board considers necessary for the proper conduct of the development board's duties and the safeguarding of the development authority's funds and property.

Sec. 8. (a) The development authority must comply with IC 5-16-7 (common construction wage), IC 5-22 (public purchasing), IC 36-1-12 (public work projects), and any applicable federal bidding statutes and regulations. An eligible political subdivision that receives a loan, a grant, or other financial assistance from the development authority or enters into a lease with the development authority must comply with applicable federal, state, and local public purchasing and bidding law and regulations. However, a purchasing agency (as defined in IC 5-22-2-25) of an eligible political subdivision may:

(1) assign or sell a lease for property to the development authority; or

(2) enter into a lease for property with the development authority;
at any price and under any other terms and conditions as may be determined by the eligible political subdivision and the development authority. However, before making an assignment or sale of a lease or entering into a lease under this section that would otherwise be subject to IC 5-22, the eligible political subdivision or its purchasing agent must obtain or cause to be obtained a purchase price for the property to be subject to the lease from the lowest responsible and responsive bidder in accordance with the requirements for the purchase of supplies under IC 5-22.

(b) In addition to the provisions of subsection (a), with respect to projects undertaken by the authority, the authority shall set a goal for participation by minority business enterprises of fifteen percent (15%) and women's business enterprises of five percent (5%), consistent with the goals of delivering the project on time and within the budgeted amount and, insofar as possible, using Indiana businesses for employees, goods, and services. In fulfilling the goal, the authority shall take into account historical precedents in the same market.

Sec. 9. The office of management and budget shall contract with a certified public accountant for an annual financial audit of the development authority. The certified public accountant may not have a significant financial interest, as determined by the office of management and budget, in a project, facility, or service funded by or leased by or to the development authority. The certified public accountant shall present an audit report not later than four (4) months after the end of the development authority's fiscal year and shall make recommendations to improve the efficiency of development authority operations. The certified public accountant shall also perform a study and evaluation of internal accounting controls and shall express an opinion on the controls that were in effect during the audit period. The development authority shall pay the cost of the annual financial audit. In addition, the state board of accounts may at any time conduct an audit of any phase of the operations of the development authority. The development authority shall pay the cost of any audit by the state board of accounts.

Chapter 3. Development Authority Powers and Duties

Sec. 1. The development authority shall do the following:

- (1) Assist in the coordination of local efforts concerning projects.
- (2) Assist a commuter transportation district, an airport authority, a shoreline development commission, and a regional bus authority in coordinating regional transportation and economic development efforts.
- (3) Fund projects as provided in this article.
- (4) Fund bus services (including fixed route services and flexible or demand-responsive services) and projects related to bus services and bus terminals, stations, or facilities.

Sec. 2. (a) The development authority may do any of the following:

- (1) Finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip land and projects located in an eligible county.
- (2) Lease land or a project to an eligible political subdivision.
- (3) Finance and construct additional improvements to projects or other capital improvements owned by the development authority and lease them to or for the benefit of an eligible political subdivision.
- (4) Acquire land or all or a portion of one (1) or more projects from an eligible political subdivision by purchase or lease and lease the land or projects back to the eligible political subdivision, with any additional improvements that may be made to the land or projects.
- (5) Acquire all or a portion of one (1) or more projects from an eligible political subdivision by purchase or lease to fund or refund indebtedness incurred on account of the projects to enable the eligible political subdivision to make a savings in debt service obligations or lease rental obligations or to obtain relief from covenants that the eligible political subdivision considers to be unduly burdensome.

(6) Make loans, loan guarantees, and grants or provide other financial assistance to or on behalf of the following:

- (A) A commuter transportation district.
- (B) An airport authority or airport development authority.
- (C) A shoreline development commission.
- (D) A regional bus authority. A loan, loan guarantee, grant, or other financial assistance under this clause may be used by a regional bus authority for acquiring, improving, operating, maintaining, financing, and supporting the following:

- (i) Bus services (including fixed route services and flexible or demand-responsive services) that are a component of a public transportation system.
- (ii) Bus terminals, stations, or facilities or other regional bus authority projects.

(7) Provide funding to assist a railroad that is providing commuter transportation services in an eligible county.

(8) Provide funding to assist an airport authority located in an eligible county in the construction, reconstruction, renovation, purchase, lease, acquisition, and equipping of an airport facility or airport project.

(9) Provide funding to assist a shoreline development commission in carrying out the purposes of IC 36-7-13.5.

(10) Provide funding for economic development projects in an eligible county.

(11) Hold, use, lease, rent, purchase, acquire, and dispose of by purchase, exchange, gift, bequest, grant, condemnation, lease, or sublease, on the terms and conditions determined by the development authority, any real or personal property located in an eligible county.

(12) After giving notice, enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a project.

(13) Make or enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this article.

(14) Sue, be sued, plead, and be impleaded.

(15) Design, order, contract for, and construct, reconstruct, and renovate a project or improvements to a project.

(16) Appoint an executive director and employ appraisers, real estate experts, engineers, architects, surveyors, attorneys, accountants, auditors, clerks, construction managers and any consultants or employees that are necessary or desired by the development authority in exercising its powers or carrying out its duties under this article.

(17) Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a political subdivision, or any other public or private source.

(18) Use the development authority's funds to match federal grants or make loans, loan guarantees, or grants to carry out the development authority's powers and duties under this article.

(19) Except as prohibited by law, take any action necessary to carry out this article.

(b) If the development authority is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes of this article, the development authority may proceed under IC 32-24-1 to procure the condemnation of the property. The development authority may not institute a proceeding until it has adopted a resolution that:

- (1) describes the real property sought to be acquired and the purpose for which the real property is to be used;
- (2) declares that the public interest and necessity require the acquisition by the development authority of the property involved; and
- (3) sets out any other facts that the development authority considers necessary or pertinent.

The resolution is conclusive evidence of the public necessity of the proposed acquisition.

Sec. 3. The development authority shall before November 1 of each year issue a report to the legislative council, the budget

committee, and the governor concerning the operations and activities of the development authority during the preceding state fiscal year. The report to the legislative council must be in an electronic format under IC 5-14-6.

Sec. 4. (a) The development authority shall prepare a comprehensive strategic development plan that includes detailed information concerning the following:

- (1) The proposed projects to be undertaken or financed by the development authority.
- (2) The following information for each project included under subdivision (1):
 - (A) Timeline and budget.
 - (B) The return on investment.
 - (C) The projected or expected need for an ongoing subsidy.
 - (D) Any projected or expected federal matching funds.
- (b) The development authority shall before January 1, 2008, submit the comprehensive strategic development plan for review by the budget committee and approval by the director of the office of management and budget.

Chapter 4. Financing; Issuance of Bonds; Leases

Sec. 1. (a) The development board shall establish and administer a development authority fund.

- (b) The development authority fund consists of the following:
 - (1) Riverboat admissions tax revenue, riverboat wagering tax revenue, or riverboat incentive payments received by a city or county described in IC 36-7.5-2-3(b) and transferred by the county or city to the fund.
 - (2) County economic development income tax revenue received under IC 6-3.5-7 by a county or city and transferred by the county or city to the fund.
 - (3) Amounts distributed under IC 8-15-2-14.7.
 - (4) Food and beverage tax revenue deposited in the fund under IC 6-9-36-8.
 - (5) Funds received from the federal government.
 - (6) Appropriations to the fund by the general assembly.
 - (7) Other local revenue appropriated to the fund by a political subdivision.
 - (8) Gifts, donations, and grants to the fund.
- (c) On the date the development authority issues bonds for any purpose under this article, which are secured in whole or in part by the development authority fund, the development board shall establish and administer two (2) accounts within the development authority fund. The accounts shall be the general account and the lease rental account. After the accounts are established, all money transferred to the development authority fund under subsections (b)(1), (b)(2), and (b)(4) shall be deposited in the lease rental account and used only for the payment of or to secure the payment of obligations of an eligible political subdivision under a lease entered into by an eligible political subdivision and the development authority under this chapter. However, any money deposited in the lease rental account and not used for the purposes of this subsection shall be returned by the treasurer of the development authority to the respective counties and cities that contributed the money to the development authority.
- (d) Notwithstanding subsection (c), if the amount of all money transferred to the development authority fund under subsections (b)(1), (b)(2), and (b)(4) for deposit in the lease rental account in any one (1) calendar year is greater than an amount equal to:
 - (1) one and twenty-five hundredths (1.25); multiplied by
 - (2) the total of the highest annual debt service on any bonds then outstanding to their final maturity date, which have been issued under this article and are not secured by a lease, plus the highest annual lease payments on any leases to their final maturity, which are then in effect under this article;
 then all or a portion of the excess may instead be deposited in the general account.
- (e) All other money and revenues of the development authority may be deposited in the general account or the lease rental account at the discretion of the development board. Money on deposit in the lease rental account may be used only to make rental payments on leases entered into by the development authority under this article. Money on deposit in the general account may be used for any purpose authorized by this article.

(f) The development authority fund shall be administered by the development authority.

(g) Money in the development authority fund shall be used by the development authority to carry out this article and does not revert to any other fund.

Sec. 2. (a) Beginning in 2006, the fiscal officer of each city and county described in IC 36-7.5-2-3(b) (other than the two (2) largest cities in a county described in IC 36-7.5-2-3(b)(1)) shall each transfer three million five hundred thousand dollars (\$3,500,000) each year to the development authority for deposit in the development authority fund established under section 1 of this chapter.

(b) The following apply to the transfers required by subsection (a):

- (1) The transfers shall be made without appropriation by the city or county fiscal body or approval by any other entity.
- (2) After December 31, 2005, each fiscal officer shall transfer eight hundred seventy-five thousand dollars (\$875,000) to the development authority fund before the last business day of January, April, July, and October of each year. Food and beverage tax revenue deposited in the fund under IC 6-9-36-8 is in addition to the transfers required by this section.
- (3) The transfers shall be made from one (1) or more of the following:
 - (A) Riverboat admissions tax revenue received by the city or county, riverboat wagering tax revenue received by the city or county, or riverboat incentive payments received from a riverboat licensee by the city or county.
 - (B) Any county economic development income tax revenue received under IC 6-3.5-7 by the city or county.
 - (C) Any other local revenue other than property tax revenue received by the city or county.

Sec. 3. (a) Subject to subsection (h), the development authority may issue bonds for the purpose of obtaining money to pay the cost of:

- (1) acquiring real or personal property, including existing capital improvements;
- (2) acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects; or
- (3) funding or refunding bonds issued under this chapter or IC 8-5-15, IC 8-22-3, IC 36-7-13.5, or IC 36-9-3 or prior law.
- (b) The bonds are payable solely from:
 - (1) the lease rentals from the lease of the projects for which the bonds were issued, insurance proceeds, and any other funds pledged or available; and
 - (2) except as otherwise provided by law, revenue received by the development authority and amounts deposited in the development authority fund.
- (c) The bonds shall be authorized by a resolution of the development board.
- (d) The terms and form of the bonds shall either be set out in the resolution or in a form of trust indenture approved by the resolution.
- (e) The bonds shall mature within forty (40) years.
- (f) The board shall sell the bonds only to the Indiana development finance authority established by IC 4-4-11-4 upon the terms determined by the development board and the Indiana development finance authority.
- (g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

- (1) planning and development of equipment or a facility and all buildings, facilities, structures, equipment, and improvements related to the facility;
- (2) acquisition of a site and clearing and preparing the site for construction;
- (3) equipment, facilities, structures, and improvements that are necessary or desirable to make the project suitable for

use and operations;

(4) architectural, engineering, consultant, and attorney's fees;

(5) incidental expenses in connection with the issuance and sale of bonds;

(6) reserves for principal and interest;

(7) interest during construction;

(8) financial advisory fees;

(9) insurance during construction;

(10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and

(11) in the case of refunding or refinancing, payment of the principal of, redemption premiums (if any) for, and interest on, the bonds being refunded or refinanced.

(h) The development authority may not issue bonds under this article unless the development authority first finds that each contract for the construction of a facility and all buildings, facilities, structures, and improvements related to that facility to be financed in whole or in part through the issuance of the bonds requires payment of the common construction wage required by IC 5-16-7.

Sec. 4. This chapter contains full and complete authority for the issuance of bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the development board or any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to issue any bonds, except as prescribed in this article.

Sec. 5. (a) The development authority may secure bonds issued under this chapter by a trust indenture between the development authority and a corporate trustee, which may be any trust company or national or state bank within Indiana that has trust powers.

(b) The trust indenture may:

(1) pledge or assign revenue received by the development authority, amounts deposited in the development authority fund, and lease rentals, receipts, and income from leased projects, but may not mortgage land or projects;

(2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the development authority and development board;

(3) set forth the rights and remedies of bondholders and trustees; and

(4) restrict the individual right of action of bondholders.

(c) Any pledge or assignment made by the development authority under this section is valid and binding in accordance with IC 5-1-14-4 from the time that the pledge or assignment is made, against all persons whether they have notice of the lien or not. Any trust indenture by which a pledge is created or an assignment made need not be filed or recorded. The lien is perfected against third parties in accordance with IC 5-1-14-4.

Sec. 6. (a) Bonds issued under IC 8-5-15, IC 8-22-3, IC 36-7-13.5, or IC 36-9-3 or prior law may be refunded as provided in this section.

(b) An eligible political subdivision may:

(1) lease all or a portion of land or a project or projects to the development authority, which may be at a nominal lease rental with a lease back to the eligible political subdivision, conditioned upon the development authority assuming bonds issued under IC 8-5-15, IC 8-22-3, IC 36-7-13.5, or IC 36-9-3 or prior law and issuing its bonds to refund those bonds; and

(2) sell all or a portion of land or a project or projects to the development authority for a price sufficient to provide for the refunding of those bonds and lease back the land or project or projects from the development authority.

Sec. 7. (a) Before a lease may be entered into by an eligible political subdivision under this chapter, the eligible political subdivision must find that the lease rental provided for is fair and reasonable.

(b) A lease of land or a project from the development authority to an eligible political subdivision:

(1) may not have a term exceeding forty (40) years;

(2) may not require payment of lease rentals for a newly constructed project or for improvements to an existing project until the project or improvements to the project have been completed and are ready for occupancy or use;

(3) may contain provisions:

(A) allowing the eligible political subdivision to continue to operate an existing project until completion of the acquisition, improvements, reconstruction, or renovation of that project or any other project; and

(B) requiring payment of lease rentals for land, for an existing project being used, reconstructed, or renovated, or for any other existing project;

(4) may contain an option to renew the lease for the same or shorter term on the conditions provided in the lease;

(5) must contain an option for the eligible political subdivision to purchase the project upon the terms stated in the lease during the term of the lease for a price equal to the amount required to pay all indebtedness incurred on account of the project, including indebtedness incurred for the refunding of that indebtedness;

(6) may be entered into before acquisition or construction of a project;

(7) may provide that the eligible political subdivision shall agree to:

(A) pay any taxes and assessments on the project;

(B) maintain insurance on the project for the benefit of the development authority;

(C) assume responsibility for utilities, repairs, alterations, and any costs of operation; and

(D) pay a deposit or series of deposits to the development authority from any funds legally available to the eligible political subdivision before the commencement of the lease to secure the performance of the eligible political subdivision's obligations under the lease; and

(8) shall provide that the lease rental payments by the eligible political subdivision shall be made from the development authority fund established by section 1 of this chapter and may provide that the lease rental payments by the eligible political subdivision shall be made from:

(A) net revenues of the project;

(B) any other funds available to the eligible political subdivision; or

(C) both sources described in clauses (A) and (B).

Sec. 8. This chapter contains full and complete authority for leases between the development authority and an eligible political subdivision. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the development authority or the eligible political subdivision or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to enter into any lease, except as prescribed in this article.

Sec. 9. If the lease provides for a project or improvements to a project to be constructed by the development authority, the plans and specifications shall be submitted to and approved by all agencies designated by law to pass on plans and specifications for public buildings.

Sec. 10. The development authority and an eligible political subdivision may enter into common wall (party wall) agreements or other agreements concerning easements or licenses. These agreements shall be recorded with the recorder of the county in which the project is located.

Sec. 11. (a) An eligible political subdivision may lease for a nominal lease rental, or sell to the development authority, one (1) or more projects or portions of a project or land upon which a project is located or is to be constructed.

(b) Any lease of all or a portion of a project by an eligible political subdivision to the development authority must be for a term equal to the term of the lease of that project back to the eligible political subdivision.

(c) An eligible political subdivision may sell property to the development authority for the amount the eligible political subdivision determines to be in the best interest of the eligible political subdivision. The development authority may pay that amount from the proceeds of bonds of the development authority.

Sec. 12. If an eligible political subdivision exercises its option to purchase leased property, the eligible political subdivision may issue its bonds as authorized by statute.

Sec. 13. (a) All:

- (1) property owned by the development authority;
- (2) revenues of the development authority; and
- (3) bonds issued by the development authority, the interest on the bonds, the proceeds received by a holder from the sale of bonds to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, proceeds received at maturity, and the receipt of interest in proceeds;

are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

(b) All securities issued under this chapter are exempt from the registration requirements of IC 23-2-1 and other securities registration statutes.

Sec. 14. Bonds issued under this chapter are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associates, credit unions, savings banks, private banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under Indiana law.

Sec. 15. An action to contest the validity of bonds to be issued under this chapter may not be brought after the time limitations set forth in IC 5-1-14-13.

Sec. 16. (a) This section applies if:

- (1) a city or county described in IC 36-7.5-2-3 fails to make a transfer or a part of a transfer required by section 2 of this chapter; and
- (2) the development authority has bonds or other debt or lease obligations outstanding.

(b) The treasurer of state shall do the following:

- (1) Deduct from amounts otherwise payable to the city or town under IC 4-33-12 or IC 4-33-13 an amount equal to the amount of the transfer or part of the transfer under section 2 of this chapter that the city or county failed to make.
- (2) Pay the amount deducted under subdivision (1) to the development authority.

Sec. 17. (a) If there are bonds outstanding that have been issued under this article and are not secured by a lease, or if there are leases in effect under this article, the general assembly also covenants that it will not reduce the amount required to be transferred from the counties and cities to the development authority under section 2 of this chapter below an amount that would produce one and twenty-five hundredths (1.25) multiplied by the total of the highest annual debt service on the bonds to their final maturity plus the highest annual lease payments on the leases to their final termination date.

(b) The general assembly also covenants that it will not:

- (1) repeal or amend this article in a manner that would adversely affect owners of outstanding bonds, or the payment of lease rentals, secured by the amounts pledged under this chapter; or
- (2) in any way impair the rights of owners of bonds of the development authority, or the owners of bonds secured by lease rentals, secured by a pledge of revenues under this chapter;

except as otherwise set forth in subsection (a).

SECTION 74. IC 36-9-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A fiscal body of a county or municipality may, by ordinance, establish a regional transportation authority (referred to as "the authority" in this chapter) for the purpose of acquiring, improving, operating, maintaining, financing, and generally supporting a public transportation system that operates within the boundaries of an area designated as a transportation planning district by the Indiana department of transportation. However, only one (1) public transportation authority may be established within an area designated as a transportation planning district by the Indiana department of transportation.

(b) The ordinance establishing the authority must include an effective date and a name for the authority. Except as provided in subsection (c), the words "regional transportation authority" must be included in the name of the authority.

(c) The words "regional bus authority" must be included in the name of an authority that includes a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

SECTION 75. IC 36-10-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 6. The board may, acting under the title "capital improvement board of managers of _____ County", do the following:

- (1) Acquire by grant, purchase, gift, devise, lease, condemnation, or otherwise, and hold, use, sell, lease, or dispose of, real and personal property and all property rights and interests necessary or convenient for the exercise of its powers under this chapter.
- (2) Construct, reconstruct, repair, remodel, enlarge, extend, or add to any capital improvement built or acquired by the board under this chapter.
- (3) Control and operate a capital improvement, including letting concessions and leasing all or part of the capital improvement.
- (4) Fix charges and establish rules governing the use of a capital improvement.
- (5) Accept gifts or contributions from individuals, corporations, limited liability companies, partnerships, associations, trusts, or political subdivisions, foundations, and funds, loans, or advances on the terms that the board considers necessary or desirable from the United States, the state, and any political subdivision or department of either, including entering into and carrying out contracts and agreements in connection with this subdivision.
- (6) Exercise within and in the name of the county the power of eminent domain under general statutes governing the exercise of the power for a public purpose.
- (7) Receive and collect money due for the use or leasing of a capital improvement and from concessions and other contracts, and expend the money for proper purposes.
- (8) Receive excise taxes, income taxes, and ad valorem property taxes and expend the money for operating expenses, payments of principal or interest of bonds or notes issued under this chapter, and for all or part of the cost of a capital improvement.
- (9) Retain the services of architects, engineers, accountants, attorneys, and consultants and hire employees upon terms and conditions established by the board, so long as any employees or members of the board authorized to receive, collect, and expend money are covered by a fidelity bond, the amount of which shall be fixed by the board. Funds may not be disbursed by an employee or member of the board without prior specific approval by the board.
- (10) Provide coverage for its employees under IC 22-3 and IC 22-4.
- (11) Purchase public liability and other insurance considered desirable.
- (12) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including the enforcement of them.
- (13) Sue and be sued in the name and style of "capital improvement board of managers of _____ County" (including the name of the county), service of process being had by leaving a copy at the board's office.
- (14) Prepare and publish descriptive material and literature relating to the facilities and advantages of a capital improvement and do all other acts that the board considers necessary to promote and publicize the capital improvement, including the convention and visitor industry, and serve the commercial, industrial, and cultural interests of Indiana and its citizens. The board may assist, cooperate, and fund governmental, public, and private agencies and groups for these purposes.
- (15) Enter into leases of capital improvements and sell or lease property under **IC 5-1-17 or IC 36-10-9.1.**

SECTION 76. IC 36-12-7-8, AS ADDED BY HEA 1288-2005, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) ~~For~~ As used in this section:

- (1) "county fiscal body" means the fiscal body of a county in which a private donation library is located;
- (2) "library board" means a library board established under IC 20-14 in a county in which a private donation library is located; and
- (3) "private donation library" means a public library established:

- (+) (A) established by private donation;
- (2) (B) located in a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);
- (3) (C) that contains at least twenty-five thousand (25,000) volumes;
- (4) (D) that has real property valued at at least one hundred thousand dollars (\$100,000); and
- (5) (E) that is open and free to the residents of the city.

a tax shall be levied and collected annually by the city according to IC 6-1-1:

- (b) The city legislative body library board shall:

- (1) levy the a tax required under subsection (a) IC 6-1-1 in an amount not less than sixty-seven hundredths of one cent (\$.0067) and not more than one and sixty-seven hundredths cents (\$.0167) on each one hundred dollars (\$100) of the assessed valuation of all the real and personal property in the city. When the city levies the tax, the library under subsection (a) shall be treated as if the library were a public library for purposes of IC 6-1-1-18.5-13; and the legislative body may increase the legislative body's levy to the same extent as a public library under IC 6-1-1-18.5-13; county;
- (2) keep the tax levied under subdivision (1) separate from all other funds of the library board; and
- (3) use the tax levied under subdivision (1):

- (A) if the membership of the trustees of the private donation library includes at least one (1) member or appointee of the library board and at least one (1) appointee of the county fiscal body, for distributions of the full amounts of the tax received to the trustees of the private donation library at the time the tax is received by the library board; or
- (B) if the membership of the trustees of the private donation library does not include at least one (1) member or appointee of the library board and at least one (1) appointee of the county fiscal body, at the discretion of the library board for:

- (i) library board purposes; or
- (ii) quarterly distributions to the trustees of the private donation library.

(c) If requested by the trustees of the private donation library, the library board shall designate a member of the library board or appoint an individual to serve as a trustee of the private donation library. If requested by the trustees of the private donation library, the county fiscal body shall appoint an individual to serve as a trustee of the private donation library.

(d) The trustees of the private donation library shall annually submit a budget to the library board.

(e) The tax shall be paid to the trustees of the private donation library. The trustees shall expend the tax amounts received under subsection (b)(3)(A) or (b)(3)(B)(ii) for the support, operation, and maintenance of the private donation library. The trustees shall:

- (1) keep the tax money separate from all other funds; The trustees shall
- (2) record:
 - (+) (A) the amount of taxes money received;
 - (2) (B) to whom and when the money is paid out; and
 - (3) (C) for what purpose the money is used;
 in a book kept by the trustees; The trustees shall and
- (3) make an annual report of the matters under this subsection referred to in subdivision (2) to the legislative body of the city: library board.

(f) For purposes of the property tax levy limits under IC 6-1.1-18.5, the tax levied by the library board under subsection (b)(1) is not included in the calculation of the maximum permissible property tax levy for the public library.

SECTION 77. IC 6-9-12-9 IS REPEALED [EFFECTIVE MAY 15, 2005].

SECTION 78. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding the effective dates included in HEA 1003-2005, the following provisions take effect February 9, 2005, and not July 1, 2005:

- (1) SECTIONS 66 through 85 of HEA 1003-2005.
- (2) SECTIONS 102 through 110 of HEA 1003-2005.
- (3) SECTION 112 of HEA 1003-2005.

(b) The actions taken by the Indiana economic development corporation to administer IC 6-3.1-13 and IC 6-3.1-26, both as amended by HEA 1003-2005, after February 8, 2005, and before the effective date of this act, are legalized and validated.

SECTION 79. [EFFECTIVE JULY 1, 2005] (a) The Indiana department of administration shall, before January 1, 2006, adopt policies and standards under IC 4-13-1-4(16), as added by this act, for using state owned property as locations for making motion pictures.

(b) This SECTION expires January 2, 2006.

SECTION 80. [EFFECTIVE JULY 1, 2005] (a) IC 6-1.1-12-34.5, as added by this act, applies to property tax assessments made after December 31, 2005.

(b) IC 6-1.1-12-35.5 and IC 6-1.1-12-36, both as amended by this act, apply to property tax assessments made after December 31, 2005.

SECTION 81. [EFFECTIVE JANUARY 1, 2006] IC 6-1.1-23-1, as amended by this act, applies only to property taxes first due and payable after December 31, 2005.

SECTION 82. [EFFECTIVE JANUARY 1, 2006] IC 6-1.1-1-11 and IC 6-1.1-31-7, both as amended by this act, apply only to property taxes first due and payable after December 31, 2006.

SECTION 83. [EFFECTIVE JANUARY 1, 2006] IC 6-1.1-45, as added by this act, applies to assessment dates occurring after February 28, 2006, for property taxes first due and payable after December 31, 2006.

SECTION 84. [EFFECTIVE JULY 1, 2005] IC 36-12-7-8, as amended by this act, applies only to property taxes first due and payable after December 31, 2005.

SECTION 85. [EFFECTIVE UPON PASSAGE] Notwithstanding the provisions in IC 6-3.5-6 that indicate that an ordinance establishing or increasing the rate of a county option income tax in 2005 must be adopted before April 1, 2005, an ordinance adopted in 2005 to establish an additional rate under IC 6-3.5-6-27, as added by this act, may be adopted before June 1, 2005. An ordinance under this SECTION must be adopted in the same manner as an ordinance under IC 6-3.5-6. An ordinance adopted under this SECTION is effective on the later of the following:

- (1) July 1, 2005.
- (2) Fifteen (15) regular business days after the department of state revenue receives a certified copy of the ordinance from the county auditor.

SECTION 86. [EFFECTIVE UPON PASSAGE] Notwithstanding the provisions in IC 6-3.5-6 that indicate that an ordinance establishing or increasing the rate of a county option income tax in 2005 must be adopted before April 1, 2005, an ordinance adopted in 2005 to establish an additional rate under IC 6-3.5-6-28, as added by this act, may be adopted before June 1, 2005. An ordinance under this SECTION must be adopted in the same manner as an ordinance under IC 6-3.5-6. An ordinance adopted under this SECTION is effective on the later of the following:

- (1) July 1, 2005.
- (2) Fifteen (15) regular business days after the department of state revenue receives a certified copy of the ordinance from the county auditor.

SECTION 87. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding any other law, the legislative body of each unit (as defined in IC 36-1-2-23) that contains the geographic area of an enterprise zone shall, before December 1, 2005, adopt and

forward to the enterprise zone board a resolution containing the legislative body's recommendation as to whether the zone should:

- (1) continue in existence, subject to the renewal schedule set forth in IC 4-4-6.1-3 of this chapter; or
- (2) be terminated effective December 31, 2005.

A legislative body that fails to adopt a resolution under this subsection is considered to have adopted a resolution recommending the termination of the zone for purposes of subsection (b).

(b) Notwithstanding any other law, if the legislative body of a unit adopts a resolution recommending the termination of an enterprise zone under subsection (a)(2), that enterprise zone is terminated effective December 31, 2005.

(c) This SECTION expires July 1, 2006.

SECTION 88. [EFFECTIVE JULY 1, 2005] Not later than June 30, 2007, Ivy Tech State College shall enter into a lease, after review by the state budget committee and approval by the budget agency, with the owners of the Fort Wayne Regional Public Safety Center to be constructed after July 1, 2005, in the Southtown Community Revitalization Enhancement District to use the Fort Wayne Regional Public Safety Center to further its partnership with the Northeast Indiana Workforce Investment Board, the Regional Anthis Career Center, the Indiana National Guard, Indiana University-Purdue University at Fort Wayne, and other area institutions to allow the Fort Wayne Regional Public Safety Center to offer public safety related degree programs. The lease may not exceed a term that ends before July 1, 2022, or provide for a lease rental payment, excluding a reasonable allowance for maintenance and repair services, that exceeds one million dollars (\$1,000,000) in any state fiscal year covered by the lease.

SECTION 89. [EFFECTIVE JULY 1, 2005] The general assembly finds the following:

- (1) The eligible counties (as defined in IC 36-7.5-1-11, as added by this act) face unique and distinct challenges and opportunities related to transportation and economic development that are different in scope and type than those faced by other units of local government in Indiana.
- (2) A unique approach is required to fully take advantage of the economic development potential of the Chicago, South Shore, and South Bend Railway and the Gary/Chicago International Airport and the Lake Michigan shoreline.
- (3) The powers and responsibilities provided to the northwest Indiana regional development authority established by IC 36-7.5-2-1, as added by this act, are appropriate and necessary to carry out the public purposes of encouraging economic development and further facilitating the provision of air, rail, and bus transportation services, projects, and facilities, shoreline development projects, and economic development projects in the eligible counties.

SECTION 90. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "commission" refers to the Indiana gaming commission established under IC 4-33.

(b) The commission shall study alternative forms of gaming to determine if other forms of gaming would be beneficial for Indiana. The commission may include the following in the study:

- (1) New games or trends in gaming that might be compatible with Indiana's existing gaming industry.
- (2) Estimates of the amount of revenue that could be generated from different gaming alternatives.
- (3) The estimated impact that gaming alternatives would have on existing gaming revenues.

(c) The commission shall report its findings to the director of the office of management and budget on or before October 1, 2005. The commission shall also provide its report to the general assembly in an electronic format under IC 5-14-6.

(d) This SECTION expires January 1, 2006.

SECTION 91. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 6-3.5-7-5 and IC 6-3.5-7-6, the county council of an eligible county (as defined in IC 36-7.5-1-11, as added by this act) may after the effective date of this act but before July 1, 2005, adopt an ordinance to impose or increase the county

economic development income tax under IC 6-3.5-7, with the imposition of the tax or the increase in the tax rate to take effect July 1, 2005.

(b) If the county council of a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000) adopts an ordinance under this SECTION before July 1, 2005, to increase the county's economic development income tax rate, then notwithstanding IC 6-3.5-7-11 or any other provision of IC 6-3.5-7 the initial certified distribution of the tax revenue that results from the tax rate increase shall be distributed to the county treasurer from the account established for the county under IC 6-3.5-7 according to the following schedule during the eighteen (18) month period beginning on July 1 of the year in which the county adopts the ordinance to increase the tax rate:

- (1) One-fourth (1/4) on October 1 of the year in which the ordinance to increase the tax rate was adopted.
- (2) One-fourth (1/4) on January 1 of the calendar year following the year in which the ordinance to increase the tax rate was adopted.
- (3) One-fourth (1/4) on May 1 of the calendar year following the year in which the ordinance was adopted.
- (4) One-fourth (1/4) on November 1 of the calendar year following the year in which the ordinance was adopted.

(c) This SECTION expires January 1, 2007.

SECTION 92. [EFFECTIVE MAY 15, 2005] (a) If a member of the board of directors of the Indiana stadium and convention building authority to be appointed under IC 5-1-17-7(a)(3) is not appointed for the initial term on or before June 30, 2005, the governor shall appoint that member for the initial term.

(b) This SECTION expires July 1, 2006.

SECTION 93. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 9-18-49-6, as added by this act, the budget agency shall carry out the duties imposed upon it by IC 9-18-49-6, as added by this act, under interim written guidelines approved by the director of the budget agency.

(b) This SECTION expires the earlier of the following:

- (1) The date rules are adopted under IC 9-18-49-6.
- (2) December 31, 2006.

SECTION 94. [EFFECTIVE MAY 15, 2005] The general assembly finds the following:

- (1) Marion, Boone, Johnson, Hamilton, Hancock, Hendricks, Morgan, and Shelby counties, and certain municipalities located in those counties, face unique and distinct challenges and opportunities related to the economic development issues associated with the construction and maintenance of a world-class convention center and stadium facility in Indianapolis.
- (2) A unique approach is required to ensure that these counties have sufficient revenue sources to allow them to meet these challenges and opportunities.
- (3) The powers and responsibilities provided to these counties and to the Indiana stadium and convention building authority created by this act are appropriate and necessary to carry out the public purposes of encouraging and fostering economic development in central Indiana and constructing a world-class convention center and stadium facility in Indianapolis.
- (4) The retention of a National Football League franchised professional football team in Indianapolis poses unique challenges due to the need for development of a world-class football stadium and related infrastructure that would not be needed apart from the needs related to the retention of a National Football League franchised professional football team in Indianapolis.
- (5) The retention of a National Football League franchised professional football team in Indianapolis is critical to successful economic development in Indianapolis and is a public purpose.
- (6) Encouragement of economic development in Indianapolis will:

(A) generate significant economic activity, a substantial portion of which results from persons residing outside Indiana, which may attract new businesses and

encourage existing businesses to remain or expand in Indianapolis;

(B) promote the consolidated city to residents outside Indiana, which may attract residents outside Indiana and new businesses to relocate to the Indianapolis;

(C) protect and increase state and local tax revenues; and
(D) encourage overall economic growth in Indianapolis and in Indiana.

(7) Indianapolis faces unique challenges in the development of infrastructure and other facilities necessary to promote economic development as a result of its need to rely on sources of revenue other than property taxes, due to the large number of tax exempt properties located in Indianapolis because Indianapolis is the seat of government, the home to multiple institutions of higher education, and the site of numerous state and regional nonprofit corporations.

(8) Economic development benefits the health and welfare of the people of Indiana, is a public use and purpose for which public money may be spent, and is of public utility and benefit.

SECTION 95. [EFFECTIVE JULY 1, 2005] There is appropriated to Ivy Tech State College three hundred thousand dollars (\$300,000) from the state general fund for its use for A&E expenses for planning of the Logansport campus during the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 96. [EFFECTIVE UPON PASSAGE] (a) The following definitions apply throughout this SECTION:

(1) "2002 liability" means the amount of property taxes imposed on a homestead first due and payable in 2002.

(2) "2003 increase" means the amount by which the 2003 liability exceeds the 2002 liability.

(3) "2003 liability" means the amount of property taxes imposed on a homestead first due and payable in 2003.

(4) "Fiscal body" has the meaning set forth in IC 36-1-2-6.

(5) "Homestead" has the meaning set forth in IC 6-1.1-20.9-1.

(6) "Liability" means liability for the taxes imposed on a homestead under IC 6-1.1 determined after application of all credits and deductions under IC 6-1.1 but does not include any interest or penalty imposed under IC 6-1.1.

(7) "Qualifying homestead" means a homestead with respect to which the 2003 increase:

(A) exceeds the 2002 liability; and

(B) is at least five hundred dollars (\$500).

(b) If the county fiscal body adopts an ordinance before July 1, 2005, to authorize the application of the credit under this SECTION, a person is entitled to a credit against the person's liability with respect to the person's qualifying homestead located in the county for property taxes first due and payable in each of the years listed in subdivision (2) in the amount of the product of:

(1) the 2003 increase; multiplied by

(2) the percentage from the following table corresponding to the year in which property taxes are first due and payable:

YEAR	PERCENTAGE
2005	80%
2006	60%
2007	40%
2008	20%

(c) A person is not required to file an application for the credit under this SECTION. The county auditor shall:

(1) identify homesteads in the county eligible for the credit under this SECTION; and

(2) apply the credit under this SECTION to the liability.

(d) The county auditor and county treasurer may apply the credit under this SECTION for property taxes first due and payable in 2005 by adjustment of the statement for the property tax installment due November 10, 2005.

(e) A political subdivision may use any source of revenue available to the political subdivision to offset a revenue loss that would otherwise result from the application of credits under this SECTION.

(f) A political subdivision may not appeal for an excessive levy

in a year succeeding a year in which a credit under this SECTION applies to make up for a revenue loss that results from the application of the credit.

(g) A county fiscal body may not provide a credit under this SECTION in the same year that the county fiscal body also provides a property tax credit for homesteads under IC 6-1.1-20.4 or IC 6-1.1-20.6.

(h) A county auditor or county treasurer may not apply the credit under this SECTION in the same year that a credit for homesteads is applied under IC 6-1.1-20.4 or IC 6-1.1-20.6.

SECTION 97. An emergency is declared for this act.

(Reference is to EHB 1120 as reprinted April 7, 2005.)

ESPICH

KENLEY

BAUER

HUME

House Conferees

Senate Conferees

The conference committee report was filed and read a first time.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 578 because it conflicts with HEA 1033-2005 without properly recognizing the existence of HEA 1033-2005, has had Engrossed Senate Bill 578 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 578 be corrected as follows:

In the conference committee report for ESB 578, delete page 63, line 29 through page 64, line 31, begin a new paragraph and insert:

"SECTION 99. IC 6-3.1-23-5, AS AMENDED BY HEA 1033-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 5. (a) A taxpayer is entitled to a credit equal to the amount determined under section 6 of this chapter against the taxpayer's state tax liability for a taxable year if the following requirements are satisfied:

(1) The taxpayer does the following:

(A) Makes a qualified investment in that taxable year.

(B) Submits the following to the Indiana ~~development~~ finance authority:

(i) A description of the taxpayer's proposed redevelopment of the property.

(ii) The sources and amounts of money to be used for the remediation and proposed redevelopment of the property.

(iii) An estimate of the value of the remediation and proposed redevelopment.

(iv) A description documenting any good faith attempts to recover the costs of the environmental damages from liable parties.

(v) Proof of appropriate zoning for the intended reuse.

(vi) A letter supporting the proposed project and redevelopment from the legislative body.

(vii) The documentation described in subsection (b).

(2) The department determines under section 15 of this chapter that the taxpayer's return claiming the credit is filed with the department before the maximum amount of credits allowed under this chapter is met.

(b) The documentation referred to in subsection (a)(1)(B)(vii) consists of information reflecting that the taxpayer:

(1) has never had an ownership interest in an entity that caused or contributed to; and

(2) has not caused or contributed to;

the release or threatened release of a hazardous substance, a contaminant, petroleum, or a petroleum product that is the subject of the remediation.

(c) The Indiana ~~development~~ finance authority shall:

(1) determine whether the taxpayer meets the requirements of subsection (a)(1); and

(2) if the taxpayer meets the requirements of subsection (a)(1), certify to the taxpayer that the taxpayer is eligible for the credit allowed under this chapter."

In the conference committee report for ESB 578, page 64, line 32, after "IC 6-3.1-23-12" insert ", AS AMENDED BY HEA 1033-2005,

SECTION 6,".

In the conference committee report for ESB 578, page 64, line 43, delete "costs under the standards adopted by the" and insert "costs;".

In the conference committee report for ESB 578, page 64, line 44, delete "department of environmental management;".

In the conference committee report for ESB 578, delete page 65, lines 12 through 32, begin a new paragraph and insert:

"SECTION 101. IC 6-3.1-23-13, AS AMENDED BY HEA 1033-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 13. (a) To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department of state revenue.

(b) The taxpayer shall submit the following to the department of state revenue:

(1) The certification of the qualified investment by the department of environmental management and the Indiana ~~development~~ finance authority under section 12(c) of this chapter.

(2) Either:

(A) an official copy of the certification referred to in section 12(d)(2)(A) of this chapter; or

(B) the certification issued by the department of environmental management in response to a request under section 12(d)(2)(B) of this chapter.

(3) Proof of payment of the certified qualified investment.

(4) The certification received by the taxpayer under section 5(c) of this chapter.

(5) Information that the department determines is necessary for the calculation of the credit provided by this chapter."

In the conference committee report for ESB 578, page 65, line 33, after "IC 6-3.1-23-15" insert ", AS AMENDED BY HEA 1033-2005, SECTION 8,".

In the conference committee report for ESB 578, page 65, line 35, delete "one" and insert "two".

In the conference committee report for ESB 578, page 65, line 36, delete "\$1,000,000)" and insert "\$2,000,000)".

In the conference committee report for ESB 578, page 66, line 16, delete "subaccount of the".

In the conference committee report for ESB 578, page 66, line 19, delete "December 31" and insert "June 30".

(Reference is to ESB 578 as reprinted March 29, 2005, and as amended by the conference committee report adopted April 29, 2005.)

WHETSTONE, Chair
PELATH, R.M.M.
BUELL, Sponsor

Report adopted.

ACTION ON RULES SUSPENSIONS AND CONFERENCE COMMITTEE REPORTS

Engrossed Senate Bill 591-1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 591-1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks

for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 591-1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Representative Bardon was excused from voting, pursuant to House Rule 47. Roll Call 639: yeas 83, nays 0. Report adopted.

Engrossed Senate Bill 360-1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 360-1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 360-1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Representative Murphy was excused from voting, pursuant to House Rule 47. Roll Call 640: yeas 93, nays 0. Report adopted.

Representatives Espich, Neese, Woodruff, and members of the Committee on Rules and Legislative Procedures, Representatives T. Brown, Frizzell, Oxley, Pelath, Stilwell, Turner, and Whetstone, were excused.

Engrossed Senate Bill 397-1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11: Engrossed Senate Bill 397-1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11: Engrossed Senate Bill 397-1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 641: yeas 82, nays 1. Report adopted.

Representative Foley was excused.

Engrossed House Bill 1073-2

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and

recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1073-2.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1073-2.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 642: yeas 81, nays 1. Report adopted.

Representative E. Harris was excused.

Engrossed House Bill 1346-1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1346-1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1346-1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 643: yeas 80, nays 1. Report adopted.

Representatives Alderman and Bardon were excused.

Engrossed House Bill 1394-1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1394-1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1394-1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 644: yeas 80, nays 0. Report adopted.

Representative Bardon, who had been excused, was present.

Engrossed Senate Bill 213-2

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 213-2.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 213-2.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 645: yeas 81, nays 0. Report adopted.

Engrossed Senate Bill 419-1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 419-1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 419-1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 646: yeas 80, nays 0. Report adopted.

Engrossed Senate Bill 508-1**COMMITTEE REPORT**

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 508-1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 508-1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 647: yeas 81, nays 0. Report adopted.

**MOTIONS TO CONCUR
IN SENATE AMENDMENTS****HOUSE MOTION**

Mr. Speaker: I move that the House reconsider its actions whereby it dissented from the Senate amendments to Engrossed House Bill 1135 and that the House now concur in the Senate amendments to said bill.

HEIM

Roll Call 648: yeas 81, nays 0. Motion prevailed.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 9:10 p.m. with the Speaker in the Chair.

Representatives Espich, Neese, Woodruff, and the members of the Committee on Rules and Legislative Procedures, Representatives Alderman, T. Brown, Foley, Frizzell, E Harris, Oxley, Pelath, Stilwell, Turner, and Whetstone, who had been excused, were present.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report 1 on Engrossed House Bill 1394.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report 1 on Engrossed Senate Bill 496 and Conference Committee Report 2 on Engrossed Senate Bills 213 and 602.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed House Concurrent Resolution 75 and the same

is herewith returned to the House.

MARY C. MENDEL
Principal Secretary of the Senate

ENROLLED ACTS SIGNED

The Speaker announced that he had signed Senate Enrolled Acts 8, 30, 49, 66, 79, 196, and 202 on April 29.

REPORTS FROM COMMITTEES**COMMITTEE REPORT**

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed House Bill 1141 because it conflicts with HEA 1398-2005 without properly recognizing the existence of HEA 1398-2005, has had Engrossed House Bill 1141 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1141 be corrected as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 33-30-2-1, AS AMENDED BY HEA 1398-2005, SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) A county court is established in the following counties:

(1) Floyd County.

(2) Madison County.

~~(3) Montgomery County.~~

(b) However, a county court listed in subsection (a) is abolished if:

(1) IC 33-33 provides a small claims docket of the circuit court;

(2) IC 33-33 provides a small claims docket of the superior court; or

(3) IC 33-34 provides a small claims court;

for the county in which the county court was established."

Page 6, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 26. IC 33-33-54-5 IS REPEALED [EFFECTIVE JANUARY 1, 2006]."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1141 as reprinted April 5, 2005.)

WHETSTONE, Chair
PELATH, R.M.M.
T. BROWN, Author

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 607 because it conflicts with SEA 139-2005 without properly recognizing the existence of SEA 139-2005, has had Engrossed Senate Bill 607 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 607 be corrected as follows:

In the Conference Committee Report to ESB 607, page 6, line 40, after "IC 25-1-6-3" insert ", AS AMENDED BY SEA 139-2005, SECTION 2,".

In the Conference Committee Report to ESB 607, page 7, line 13, delete "Except for appeals of denials of license renewals to the executive".

In the Conference Committee Report to ESB 607, page 7, line 14, delete "director authorized by section 5.5 of this chapter, nothing" and insert "Nothing".

(Reference is to ESB 607 as printed March 25, 2005, and as amended by the Conference Committee Report to ESB 607 adopted April 29, 2005.)

WHETSTONE, Chair
PELATH, R.M.M.
ALDERMAN, Sponsor

Report adopted.

RESOLUTIONS ON FIRST READING**House Resolution 99**

Representative Bosma introduced House Resolution 99:

A HOUSE RESOLUTION to honor Donald L. Blinzinger.

Whereas, Donald L. Blinzinger received a B.A. from Wabash College and a Master's degree from Florida State University;

Whereas, Donald L. Blinzinger was awarded a Sagamore of the Wabash by Governor Robert D. Orr in 1986;

Whereas, Donald L. Blinzinger served as Chief-of-Staff to House Republican Leader and now Speaker Brian C. Bosma and the House Republican Caucus for two years;

Whereas, Donald L. Blinzinger served as senior vice president of Legal and Regulatory Affairs at St. Vincent Hospital and Health Care Center, Inc., with responsibility for legislative and regulatory affairs at the state and federal levels;

Whereas, Donald L. Blinzinger serves in Governmental Affairs as a Vice President with Bose Treacy Associates LLC;

Whereas, Donald L. Blinzinger has provided legislative and regulatory representation of utilities, banking, insurance, pharmaceutical, health care, and commercial real estate clients; and

Whereas, Donald L. Blinzinger continues to serve the community as a member of the Columbia Club, the Indiana Historical Society, the Indianapolis Press Club, the Woodstock Club, and the Governmental Affairs Society of Indiana: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the Indiana House of Representatives thanks Donald L. Blinzinger for his years of service to the state.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Donald L. Blinzinger.

The resolution was read a first time and adopted by voice vote.

House Resolution 100

Representatives Bosma and Richardson introduced House Resolution 100:

A HOUSE RESOLUTION to honor Reggie Miller for his 18 seasons with the Indiana Pacers.

Whereas, Reggie Miller is an esteemed resident of the State of Indiana;

Whereas, Reggie Miller was born in Riverside, California, attended Riverside Polytechnic High School and graduated from UCLA in 1987;

Whereas, Reggie Miller was the 11th pick in the first round of the 1987 NBA Draft for the Indiana Pacers;

Whereas, As of 2005, he surpassed Moses Malone on the NBA's all-time games played list with more than 13,000 games played;

Whereas, Reggie Miller is the Indiana Pacer's all-time leader in 13 major statistical categories, including scoring, assists, and steals;

Whereas, Reggie Miller is the league's all-time leader in 3-pointers made and attempted;

Whereas, Reggie Miller stands 12th on the NBA's all-time scoring list and ranks third behind only Michael Jordan and Oscar Robertson when looking at guards;

Whereas, Reggie Miller has made 89 percent of his free throws which is the highest for any player in the NBA with over 5,000 free throw attempts;

Whereas, Reggie Miller was the recipient of the NBA's J. Walter Kennedy Community Service Award for 2003-2004;

Whereas, Reggie Miller represented the United States and USA Basketball at the 1996 Atlanta Olympics and the 1994 and 2002 FIBA World Championship each time with class and distinction;

Whereas, Reggie Miller's competitive spirit, professionalism, class,

and leadership by example helped elevate the Indiana Pacers franchise to a whole new level in the NBA;

Whereas, Before Reggie Miller's arrival, the Pacers had been to the NBA playoffs twice in 12 seasons, eliminated in the first round both times;

Whereas, Since Reggie Miller's arrival, the Pacers have had 15 playoff trips during his 18 seasons, six trips to the Eastern Conference Finals and the only NBA Finals berth ever;

Whereas, Reggie Miller scored 8 points in the final 8.9 seconds to win game one in the 1995 Eastern Conference Semi-Final game in New York; and

Whereas, Pacer fans will always consider Reggie Miller to be a true Hoosier: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the Indiana House of Representatives honors Reggie Miller for his 18 seasons with the Indiana Pacers.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit copies of this resolution to Reggie Miller, President of Basketball Operations Larry Bird, and to Chief Executive Officer and President Donnie Walsh.

The resolution was read a first time and adopted by voice vote.

ACTION ON RULES SUSPENSIONS AND CONFERENCE COMMITTEE REPORTS**Engrossed Senate Bill 496-1****COMMITTEE REPORT**

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 496-1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 496-1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 649: yeas 93, nays 1. Report adopted.

Engrossed Senate Bill 307-1**COMMITTEE REPORT**

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 307-1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 307-1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 650: yeas 51, nays 44. Report adopted.

Engrossed Senate Bill 609-1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 609-1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 609-1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 651: yeas 91, nays 0. Report adopted.

Engrossed House Bill 1097-1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1097-1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1097-1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 652: yeas 93, nays 0. Report adopted.

Engrossed House Bill 1120-1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1120-1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1120-1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. On the motion of Representative Pelath the previous question was called. Roll Call 653: yeas 62, nays 33. Report adopted.

Engrossed Senate Bill 536-1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 536-1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 536-1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 654: yeas 69, nays 19. Report adopted.

Engrossed Senate Bill 218-1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 218-1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 218-1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. On the motion of Representative Pelath the previous question was called. Roll Call 655: yeas 63, nays 30. Report adopted.

Engrossed Senate Bill 444-1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 444-1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 444-1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 656: yeas 95, nays 0. Report adopted.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 1120 because it conflicts with HEA 1078-2005, HEA 1137-2005, SEA 12-2005, and SEA 578-2005 without properly recognizing the existence of HEA 1078-2005, HEA 1137-2005, SEA 12-2005, and SEA 578-2005, has had Engrossed Senate Bill 1120 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 1120 be corrected as follows:

In the Conference Committee Report to to EHB 1120, page 5, line 34, after "IC 4-4-30-5" insert ", AS AMENDED BY HEA 1078-2005, SECTION 1,".

In the Conference Committee Report to to EHB 1120, page 5, line 40, delete "." and insert "and coal bed methane."

In the Conference Committee Report to to EHB 1120, page 5, between lines 50 and 51, begin a new line block indented and insert: "(9) Investigate the use of coal bed methane in the production of renewable or alternative fuels and renewable energy sources."

In the Conference Committee Report to to EHB 1120, page 5, line 51, delete "(9)" and insert "(10)".

In the Conference Committee Report to EHB 1120, page 6, line 2, after "IC 4-13-1-4" insert ", AS AMENDED BY SEA 12-2005, SECTION 1, AND BY HEA 1137-2005, SECTION 5,".

In the Conference Committee Report to EHB 1120, page 6, delete lines 25 through 26.

In the Conference Committee Report to EHB 1120, page 6, line 29, delete ", the telephone rotary fund, and the data".

In the Conference Committee Report to EHB 1120, page 6, line 30, delete "processing rotary fund are" and insert "is".

In the Conference Committee Report to EHB 1120, page 6, line 32, delete "each" and insert "the general services".

In the Conference Committee Report to EHB 1120, page 7, line 38, delete "(16)" and insert "(16) Adopt rules to establish and implement a "Code Adam" safety protocol as described in IC 4-20.5-6-9.

(17)".

In the Conference Committee Report to EHB 1120, page 70, delete lines 7 through 19, begin a new paragraph and insert:

"SECTION 50. IC 8-9.5-9-2, AS AMENDED BY SEA 578-2005, SECTION 108, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. As used in this chapter, "authority" means:

(1) an authority or agency established under IC 8-1-2.2 or IC 8-9.5 through IC 8-23;

(2) when acting under an affected statute (as defined in IC 4-4-10.9-1.2), the Indiana finance authority established by IC 4-4-11;

(3) only in connection with a program established under IC 13-18-13 or IC 13-18-21, the bank established under IC 5-1-5;

(4) a fund or program established under IC 13-18-13 or IC 13-18-21;

(5) the Indiana health and educational facility financing authority established by IC 5-1-16; ~~and~~

(6) the Indiana housing finance authority established by IC 5-20-1;

(7) the authority established under IC 4-4-11; or

(8) the authority established under IC 5-1-17."

(Reference is to EHB 1120 as printed April 7, 2005, and as amended by the Conference Committee Report to EHB 1120 adopted April 29, 2005.)

WHETSTONE, Chair
PELATH, R.M.M.
ESPICH, Author

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 496 because it conflicts with HEA 1288-2005 without properly recognizing the existence of HEA 1288-2005, has had Engrossed Senate Bill 496 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 496 be corrected as follows:

Page 17, line 42, delete "IC 20-14-14." and insert "IC 36-12-14".

Page 17, line 45, delete "IC 20-14-14" and insert "IC 36-12-14".

Page 25, line 49, delete "IC 20-14-14" and insert "IC 36-12-14".

(Reference is to ESB 496 as reprinted April 5, 2005, and as amended by the Conference Committee Report to ESB 496 adopted April 29, 2005.)

WHETSTONE, Chair
PELATH, R.M.M.
ESPICH, Sponsor

Report adopted.

OTHER BUSINESS ON THE SPEAKER'S TABLE

MESSAGE FROM THE PRESIDENT OF THE SENATE

Mr. Speaker and Members of the House: I have on the 29th day of April, 2005, I signed House Enrolled Acts 1056, 1059, 1078, 1113, 1137, 1165, 1179, 1241, 1270, 1495, and 1662.

REBECCA S. SKILLMAN
President of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report 2 on Engrossed House Bill 1073.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report 1 on Engrossed House Bill 1120.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report 1 on Engrossed Senate Bill 307.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report 1 on Engrossed Senate Bill 444.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report 1 on Engrossed Senate Bill 508.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed House Bill 1120.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed House Bill 1141.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed Senate Bill 496.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed Senate Bill 571.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on

Engrossed Senate Bill 578.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed Senate Bill 607.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I hereby transmit Senate Enrolled Acts 100, 127, 132, 206, 242, 268, 279, 282, 322, 382, 420, 432, 446, 549, 574, and 615 for signature of the Speaker of the House.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed House Concurrent Resolution 87 and the same is herewith returned to the House.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 74 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the concurrence on Engrossed House Bill 1052, Roll Call 521, on April 14, 2005. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yea."

GOODIN

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 521 to 87 yeas, 0 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on conference committee report 1 on Engrossed House Bill 1075, Roll Call 603, on April 27, 2005. In support of this petition, I submit the following reason:

"It was my intent to excuse myself from voting on this matter pursuant to House Rule 47. I request that my yea vote be removed and the record reflect that I was excused from voting pursuant to House Rule 47."

MURPHY

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 603 to 82 yeas, 6 nays, 10 excused.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the concurrence on Engrossed House Bill 1113, Roll Call 531, on April 18, 2005. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote nay."

FRY

There being a constitutional majority voting in favor of the

petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 531 to 59 years, 27 days.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the concurrence on Engrossed House Bill 1611, Roll Call 596, on April 27, 2005. In support of this petition, I submit the following reason:

"I was present and in my seat, but when I attempted to vote, I inadvertently pushed the nay button when I intended to vote yea."

KUZMAN

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 596 to 87 years, 6 days.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the concurrence on Engrossed House Bill 1662, Roll Call 538, on April 18, 2005. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yea."

BARDON

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 538 to 87 years, 1 days.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on Representative T. Harris's second reading amendment to Engrossed Senate Bill 13, Roll Call 389, on April 5, 2005. In support of this petition, I submit the following reason:

"I was present and in my seat, but when I attempted to vote, I inadvertently pushed the nay button when I intended to vote yea."

ROBERTSON

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 389 to 73 years, 20 days.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on conference committee report 1 on Engrossed Senate Bill 217, Roll Call 556, on April 25, 2005. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote nay."

PORTER

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 556 to 70 years, 24 days.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 298, Roll Call 303, on March 28, 2005. In support of this petition, I submit the following reason:

"I was recorded as not voting when I had been excused from voting."

DVORAK

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 303 to 91 years, 2 days, 3 excused.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on conference committee report 1 on

Engrossed Senate Bill 397, Roll Call 641, on April 29, 2005. In support of this petition, I submit the following reason:

"I was temporarily away from my desk and was unable to reach my desk in time to cast my vote. I intended to vote yea."

RUPPEL

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 641 to 82 years, 1 day.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 381, Roll Call 480, on April 11, 2005. In support of this petition, I submit the following reason:

"I was present and in my seat, but when I attempted to vote, I inadvertently push the nay button when I intended to vote yea."

WOLKINS

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 480 to 75 years, 21 days.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 498, Roll Call 491, on April 11, 2005. In support of this petition, I submit the following reason:

"I was present and in my seat, but when I attempted to vote, I inadvertently pushed the nay button when I intended to vote yea."

BARDON

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 491 to 88 years, 8 days.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on conference committee report 1 on Engrossed Senate Bill 591, Roll Call 639, on April 29, 2005. In support of this petition, I submit the following reason:

"I was present and in my seat, but when I attempted to vote, I inadvertently pushed the nay button when I intended to vote yea."

FRIZZELL

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 639 to 83 years, 0 days.*]

RESOLUTIONS ON FIRST READING

Senate Concurrent Resolution 74

The Speaker handed down Senate Concurrent Resolution 74, sponsored by Representative Bosma:

A CONCURRENT RESOLUTION fixing the date for the first regular technical session of the General Assembly.

Whereas, IC 2-2.1-1-2.5 authorizes the General Assembly to fix a date for the First Regular Technical Session of the General Assembly;

Whereas, The General Assembly finds that it is in the best interest of the State of Indiana to fix a date for the Technical Session; and

Whereas, It is prudent to allow the Speaker of the House of Representatives and the President Pro Tempore of the Senate to jointly order that the Technical Session not convene if they determined its cost and inconvenience do not justify meeting in Technical Session: Therefore,

*Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:*

SECTION 1. The date for the Technical Session of the General Assembly is hereby fixed for June 8, 2005, at 10:30 a.m.

SECTION 2. The Speaker of the House of Representatives and the President Pro Tempore of the Senate may issue a joint order that the General Assembly not convene in Technical Session if they determined that the cost and inconvenience of meeting in Technical Session are not justified.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

ENROLLED ACTS SIGNED

The Speaker announced that he had signed House Enrolled Acts 1075, 1306, 1329, 1431, 1646, and 1765 and Senate Enrolled Acts 100, 127, 132, 206, 242, 268, 279, 282, 322, 382, 420, 432, 446, 549, 574, and 615 on April 29.

ADJOURNMENT OF THE FIRST REGULAR SESSION

HOUSE MOTION

Mr. Speaker: I move that all requests for interim studies, including those made by resolution, bills which failed to pass both Houses of the General Assembly, or written or oral requests to the Speaker of the House are hereby referred to the Legislative Council for further consideration as it deems necessary or appropriate.

SAUNDERS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that the Speaker of the House of Representatives appoint a committee of four members of the House of Representatives to confer with the Senate for the purpose of ascertaining if the Senate has any further legislative business to transact with the House of Representatives.

FRIEND

Motion prevailed. The Speaker appointed Representatives Ulmer, Woodruff, Kromkowski, and Porter.

COMMITTEE REPORT

Mr. Speaker: Your Committee which was appointed by the Speaker to ascertain if the Senate has further legislative business to transact with the House of Representatives has performed the duties assigned to them. The committee reports that the Senate has no further legislative business with the House of Representatives.

ULMER	KROMKOWSKI
WOODRUFF	PORTER

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that the Speaker of the House of Representatives appoint a committee of six members of the House of Representatives to confer with the Governor for the purpose of ascertaining if the Governor has any further communications to make to the House of Representatives.

FRIEND

Motion prevailed. The Speaker appointed Representatives Buck, Ruppel, Lehe, VanHaaften, Dickinson, and Kromkowski.

COMMITTEE REPORT

Mr. Speaker: Your Committee which was appointed by the Speaker to ascertain if the Governor has further business to transact with the House of Representatives has performed the duties assigned to them. The committee reports that the Governor has no further business to transact with the House of Representatives.

BUCK	VAN HAAFTEN
RUPPEL	DICKINSON
LEHE	KROMKOWSKI

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that the Speaker of the House of Representatives appoint a committee of four members of the House of Representatives to inform the Senate that the House of Representatives has completed its business and is ready to adjourn.

T. BROWN

Motion prevailed. The Speaker appointed Representatives Gutwein, McClain, Stilwell, and L. Lawson.

COMMITTEE REPORT

Mr. Speaker: Your Committee which was appointed by the Speaker to inform the Senate that the House of Representatives has completed its business and is ready to adjourn has performed the duties assigned to it. The committee reports that they have informed the Senate that the House of Representatives has completed its business and is ready to adjourn.

GUTWEIN	STILWELL
McCLAIN	L. LAWSON

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that the Speaker of the House of Representatives appoint a committee of six members of the House of Representatives to inform the Governor that the House of Representatives has completed its business and is ready to adjourn.

T. BROWN

Motion prevailed. The Speaker appointed Representatives Thompson, Ayres, Alderman, Oxley, Pelath, and V. Smith.

COMMITTEE REPORT

Mr. Speaker: Your Committee which was appointed by the Speaker to inform the Governor that the House of Representatives has completed its business and is ready to adjourn has performed the duties assigned to them. The committee reports that they have informed the Governor that the House of Representatives has completed its business and it ready to adjourn.

THOMPSON	OXLEY
AYRES	PELATH
ALDERMAN	V. SMITH

Report adopted.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the following committee report:

“Your committee appointed to ascertain whether the House of Representatives has any further legislative business to transact hereby reports that your Committee of Senators Riegsecker and Skinner has conferred with the House of Representatives and the House of Representatives has no further business to transact with the Senate.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the following committee report:

“Your committee appointed to confer with the Governor to ascertain whether or not he has any further communications to make to the Senate hereby reports that your Committee of Senators Merritt and Breaux has waited upon the Governor and that the Governor has no further communications to make to the Senate.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adjourned the First Regular Session of the 114th

Indiana General Assembly *sine die* at 11:10 p.m. on the twenty-ninth day of April, 2005.

MARY C. MENDEL
Principal Secretary of the Senate

HOUSE MOTION

Mr. Speaker: I move that the House of Representatives of the First Regular Session of the 114th General Assembly do now adjourn *sine die* at 11:16 p.m., this twenty-ninth day of April, 2005.

ALDERMAN

Motion prevailed. The House adjourned *sine die*.

BRIAN C. BOSMA
Speaker of the House of Representatives

M. CAROLINE SPOTTS
Principal Clerk of the House of Representatives